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AUTHOR Gerry, Martin H.
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ABSTRACT

This is a letter to Chancellor Irving Anker of the Board of Education of the City of New York from the Office of Civil Rights, Department of Health, Education, and Welfare. The letter concerns the results of an investigation concerning discrimination in the New York City public schools. This compliance review is the largest civil rights investigation of a public institution ever undertaken. It was found that the New York City school system violated Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, national origin; Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex, and Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination against physically or mentally handicapped individuals. Some of the findings of this review are: (1) minorities are receiving lower amounts of local resources for basic education, in poorer quality facilities which have a more limited range of curricula, (2) minorities are segregated in elementary school classrooms and special education classes and are given unequal educational services, (3) students whose primary language is other than English are barred from meaningful participation in education programs, and (4) minority and female students in junior high/intermediate and high schools are channeled to less desirable and more restricted academic, vocational and special programs where they are provided with less effective counseling services. A graphic presentation detailing the many areas of segregation in the New York City School system is appended to this letter. (Author/AM)

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January 18, 1977

Statement by Martin H. Gerry
Director, Office for Civil Rights
Department of Health, Education and Welfare

Yesterday, I met with Chancellor Irving Anker of the New York City school system to advise him of my conclusion that the school system is violating civil rights laws which prohibit discrimination against minority, female, and handicapped students.

This decision concludes a compliance review of the New York City public schools -- the largest civil rights investigation of a public education institution ever undertaken. The date for completion of the review was set by United States District Court Judge John Sirica as part of an order entered in the case of Brown v. Mathews.

Specifically, we have informed the school system that it has violated Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, national origin; Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex; and Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination against physically or mentally handicapped individuals.

The findings of the review are:

-- Minorities are receiving lower amounts of local resources for basic education, in poorer quality facilities which have a more limited range of curricula.

-- Minorities are segregated in elementary school classrooms and special education classes and are given unequal educational services.

-- Students whose primary language is other than English are barred from meaningful participation in education programs.

-- Minority and female students in junior high/intermediate and high schools are channeled to less desirable and more restricted academic, vocational and special programs and are provided with less effective counseling services.

-- Minority junior high/intermediate and high school students are treated differently and more harshly than non-minority students disciplined for the same offense.

-- Non-ambulatory students are given a significantly shorter instructional day and are confronted by architectural barriers which deny them the opportunity to participate fully in the system's education program.

My office has asked for a plan within 60 days which will remedy the discrimination and provide corrective action. We have offered technical assistance to the school system in developing a plan to meet the requirements of Title VI, Title IX and Section 504.

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Our objective is to negotiate a workable plan and protect the rights of persons served by federally-funded programs. Voluntary resolution is faster and less expensive than litigation but we are under a federal court order to initiate legal proceedings where negotiations fail.

Our offer of assistance is genuine and we intend to do everything possible to aid the New York school system in efforts to come into compliance.



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

OFFICE OF THE SECRETARY

WASHINGTON, D.C. 20201

January 18, 1977

Chancellor Irving Anker
Board of Education of the
City of New York
110 Livingston Street
Brooklyn, New York 11201

Dear Chancellor Anker:

This letter is to advise you that the Office for Civil Rights has concluded that portion of the compliance investigation of the Board of Education of the City of New York which relates to the provision of equal educational services to students in the school system. The investigation has been conducted in response to requests received by the Department of Health, Education and Welfare from several sources. In 1972 the U. S. Commission on Civil Rights conducted hearings concerning discrimination in the New York City public schools. After publishing a report of these hearings, the chairman of the Commission asked Secretary Elliot Richardson to begin a civil rights compliance investigation of the New York City public schools. Senator Jacob Javits requested that any investigation undertaken by the Department pursuant to Title VI of the Civil Rights Act of 1964 should be sufficiently comprehensive to focus on the treatment of all important aspects of equal educational opportunity for all minority groups in the school system. The Board of Education was informed of the initiation of this compliance investigation in a letter from this Office dated July 18, 1972. This Office has also received a number of individual complaints from students and parents of students in the school system. In a letter dated August 8, 1972, I informed Chancellor Scribner of our decision to broaden the investigation to include the compliance of the system with the requirements of Title IX of the Education Amendments of 1972 and all pending Title VI and Title IX complaints.

On the basis of the information collected during our investigation, and consistent with the timetable established by Judge John Sirica's order of September 20, 1976, in Brown v. Mathews, Civil No. 75-1068 (D. D.C. September 20, 1976), I have concluded that the school system is operating in non-compliance with Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d (hereinafter referred to as "Title VI"), Title IX of the Education

Amendments of 1972, 20 U.S.C. 1681 (hereinafter referred to as "Title IX") and Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794 (hereinafter referred to as "Section 504"). (See Appendix A for a description of information collected during the review from the New York City school system and the New York State Department of Education.) The violations which are discussed below are separate and in addition to the findings of non-compliance which were detailed in my November 9, 1976, letter to you concerning the school system's employment practices.

Specifically, I have concluded that the New York City school system (hereinafter referred to as the "school system") has:

(1) On the basis of race, national origin, sex and physical and mental handicap, deprived minority, female and handicapped students of an equal share of the resources provided from local tax revenues for basic education by (a) allocating lower per pupil instructional expenditures for the education of minority students, (b) providing more limited and poorer quality facilities and educational materials for their education, (c) establishing a more limited and less desirable range of curricula and instructional and non-instructional programs, and (d) assigning less experienced and less well-qualified staff to provide instruction; and denied minority students the full benefits of special supplementary education programs provided from Federal sources intended solely for the benefit of educationally disadvantaged students, by diverting such funds to other uses.

(2) On the basis of race and national origin, denied minority students meaningful educational experience and the full benefits of educational programs offered by segregating minority students in educationally disadvantaging instructional settings where they are subjected to restricted curricular opportunities and inferior instructional services and by providing inappropriate instructional approaches for students with primary language abilities in languages other than English.

(3) On the basis of race, national origin and sex, denied minority and female students access to the full range of educational opportunities afforded other students by (a) providing a lower level of guidance and counseling assistance in terms of the opportunity for and access to services, and the type, duration, and quality of such services, (b) restricting the ability of students to participate in academic and specialized curricula; and (c) guiding and channeling these students toward classes, tracks or overall educational, economic and career objectives which are more restricted in range and often race and sex stereotyped.

(4) On the basis of race and national origin, subjected minority students to disciplinary practices which have resulted in harsher punishments (both in terms of type and duration) being meted out to minority as compared to nonminority students, both in general and for the same offense, through the application of vague and subjective criteria.

I. Denial of Equal Educational Resources

One focal point of this Office's investigation has been the manner in which the school system allocates its financial resources. The Department's Title VI Regulation, 45 CFR Part 80, prohibits actions which deny individuals services, provide services in a different manner, or otherwise defeat the purpose of the program with respect to particular individuals on the basis of race, color or national origin. Similar provisions covering sex discrimination are found at 45 CFR Part 83. The Department's proposed Section 504 regulation (41 Fed.Reg. 29548) also reflects this position. In March 1968, the Department published Policies on Elementary and Secondary School Compliance with Title VI of the Civil Rights Act of 1964, 33 Fed. Reg. 4955. These policies at Subpart B, Section 9, - "Inferior Educational Facilities and Services", provide:

Where there are students of a particular race, color, or national origin concentrated in certain schools or classes, school systems are responsible for assuring that these students are not denied equal educational opportunities by practices which are less favorable for educational advancement than the practices at schools or classes attended primarily by students of any other race, color, or national origin.

Specific examples of inferior educational facilities and services include:

- Comparative overcrowding of classes, facilities, and activities
- Assignment of fewer or less qualified teachers and other professional staff

- Provision of less adequate curricula and extra curricular activities or less adequate opportunities to take advantage of the available activities and services
 - Provision of less adequate student services (guidance and counseling, job placement, vocational training, medical services, remedial work)
 - Assigning heavier teaching and other professional assignments to school staff
 - Maintenance of higher pupil-teacher ratios or lower per pupil expenditures
 - Provision of facilities (classrooms, libraries, laboratories, cafeterias, athletic, and extra curricular facilities), instructional equipment and supplies, and textbooks in a comparatively insufficient quantity
 - Provision of buildings, facilities, instructional equipment and supplies, and textbooks which, comparatively, are poorly maintained, outdated, temporary or otherwise inadequate.
- Policies on Elementary and Secondary School Compliance, Section 9.

On the basis of our investigation of the school system's budgetary and funding allocation practices, I have concluded that the school system denies its minority students equal educational opportunities by providing less financial support for their education. The school system allocates less money per student for instructional services for minority high school students, provides poorer and more limited facilities and educational materials for the use of minority students at all levels of the school system and generally provides minority students with a more limited and less desirable range of curricula. In addition, the school system further disadvantages minority students by diverting to other uses, Federal funds intended as special supplementary education programs for economically and educationally disadvantaged students, most of whom are minority.

A. Allocation of Per Pupil Instructional Expenditures

The school system receives money from local tax revenues as well as from the Federal and state governments to effectuate its overall budget. The total budget is allocated principally for instructional salaries, educational materials and the construction and upkeep of facilities. Approximately 85 percent of the school system's budget supports the salaries and related benefits of school personnel. The funding formulas distribute State and local tax levy dollars among the 32 community school districts, and the high schools and special programs operated directly by the Board of Education.

At the high school level, information collected during our investigation reveals that high schools enrolling substantial percentages of nonminority students receive a 15 percent higher per pupil instructional salary allocation (\$844) than high schools enrolling no minority students, or comparatively few (\$739). A similar but less severe disparity was found in per pupil instructional expenditures for the vocational high schools.

This pattern is so pervasive that it is possible statistically to predict the predominant racial/ethnic characteristics of any academic high school within New York City by examining its instructional expenditures. (See Appendix B.)

This disparate funding allocation system constitutes a violation of the Fourteenth Amendment to the Constitution of the United States and Title VI.

B. Unequal Provision of Facilities and Educational Materials

On the basis of our investigation, I have also concluded that school facilities in which the enrollment is predominantly minority tend to be inferior and less conducive to educational advancement than school facilities attended predominantly by nonminority students.

The information collected during our investigation reveals a consistent disparity in the quality of the instructional environment. For example, differences are observable in the quality and condition of high school science laboratories and audio-visual equipment used to support instruction. The condition of textbooks varies even more dramatically with over 90 percent of the predominantly nonminority schools

reporting good/excellent textbook condition in contrast to 69 percent of predominantly minority schools. (See Appendix C.) Even more significant were the results of an analysis conducted by the New York City Department of Health of safety and health conditions within the school system. This analysis reveals a strong relationship between the race/ethnicity of the students attending a school and key health and safety indicators. According to the analysis, as the percentage of minority students attending a school increases, so does the prospect of poor lighting, unsanitary conditions and infestation by vermin. (See Appendix D.)

All of these factors relating to the physical plant in which the school system provides its educational services combine to create an environment for minority students which is not conducive to learning and which is substantially inferior to the environment provided for nonminority students within the system. Thus, instructional settings have been created and maintained which interfere with, rather than foster, learning; and the prospects for educational success for minority students are further impeded.

The practices described in this section violate the Fourteenth Amendment and Title VI.

C. Limited Instructional Opportunities

On the basis of our investigation, I have concluded that the school system has limited both instructional and non-instructional opportunities in schools which are predominantly minority. Similarly, the instructional opportunities of some handicapped students are directly limited by the nature of the transportation provided to them.

At the elementary school level, minority students are assigned to instructional settings which offer more restricted and less desirable services both as between racially/ethnically identifiable schools and within integrated schools which have racially/ethnically identifiable classes. In particular, the size of reading and math instructional groups increases as the percentage of minority student enrollment increases. Information provided by six community school districts (Community School Districts 9, 10, 18, 21, 26, and 28) shows that in schools enrolling 70-100 percent nonminority students, 50 percent of the students receive reading instruction

individually or in small groups. In schools enrolling 90-100 percent minority students, only 40 percent of the students receive individual or small group instruction. At the classroom level, 49 percent of mathematics instruction provided in classes with enrollments of 70-100 percent nonminority students is on a small group or individualized basis. In contrast, only 36 percent of mathematics instruction in classes predominantly enrolling minority students (90-100 percent) is provided on an individualized or small group basis. Similarly, at the junior high/intermediate level the number of students enrolled in special progress classes varies directly with the racial/ethnic composition of the school. Average enrollment in special progress classes for schools with 90-100 percent minority student enrollment is 22 students. In striking contrast, average special progress class enrollment in schools enrolling 70-100 percent nonminority students is 81 students.

At the high school level (both academic and vocational), predominantly minority schools offer a narrower and less desirable range of curricular programs which often follow sex stereotypes. This finding with respect to both the special admission academic high schools and vocational high schools is discussed below.

In the academic high schools, information gathered from the school system during our review shows that, as the percentage of minority students attending academic high schools increases, the number and range of courses offered decreases dramatically. (See Appendix E.) In addition, minority academic high schools are much more likely to have curricula which do not include art, music and foreign language instruction. Academic high schools with high enrollments of minority students also have significantly fewer advanced placement sections offering high level college preparatory instruction. (See Appendix F.)

Restrictions on instructional and extracurricular opportunities also exist for many handicapped students with restricted mobility who receive transportation to school at public expense. Because of the current scheduling of transportation services and the small number of buses available for such transportation, bus routes are quite long and often result in handicapped students either arriving at school after other students or leaving the school before other students. A significantly shorter instructional day thus results for these students.

Additionally, information provided by the school system with respect to elementary and junior high/intermediate school facilities during the 1975-76 school year shows the presence of significant architectural barriers in many schools (e.g., absence of ramps for wheelchairs, presence of structural barriers to classrooms and lavatories) which seriously impede the access of physically handicapped students to the full benefits of the educational program offered by the school system. The provision of unequal instructional services denies handicapped students the opportunity to participate fully in the school system's educational program in violation of Section 504.

D. Assignment of Less Experienced and Less Qualified Teaching Staff

In my November 9, 1976, letter, I informed you of my conclusion that the school system has assigned teachers with less experience, lower average salaries and fewer advanced degrees to schools which have higher percentages of minority students. (See Appendix G.) Since that time, further analysis has indicated that this pattern exists not only at the school level but also at the classroom level. Information collected from the six community school districts identified above shows that individual classes which have higher percentages of minority students are often taught by teachers with less experience and lower educational qualifications than classes which have higher percentages of nonminority students. This pattern is discussed more fully in Section II below.

Consequently, the instructional staff assigned to teach minority students have less experience and fewer advanced degrees than those assigned to teach nonminority students. This disparity combines with the provision of inferior facilities and educational materials and lower instructional expenditures to establish an educational environment for minority students which is less favorable to their educational advancement than that provided for nonminority students in violation of the Fourteenth Amendment and Title VI.

E. Misallocation of Special Federal Program Monies

The basic concept underlying virtually all current Federal education programs providing financial support to public elementary and secondary education is that the local educational agency should provide all basic educational

services, while the Federal Government should finance supplementary services directed to special education problems of educationally and economically disadvantaged students. Thus, programs such as Titles I and VII of the Elementary and Secondary Education Act of 1965, as amended, provide funds for the instruction of educationally disadvantaged children who require compensatory educational services; in the case of Title I, because of poverty and, in the case of Title VII, because of non-English language background. In both these programs school systems are entitled to Federal funding based on the number of students who are poor or whose primary language is a language other than English. There has, therefore, traditionally been a strong correlation between participation in these programs and race/ethnicity.

The school system has participated in these Federal education programs for several years. In fact, during the 1975-76 school year, the school system received approximately \$160,000,000 under these two programs alone. Total Federal education funds received during that year exceeded \$200,000,000. Information provided shows that minority students, who represent a very high percentage of students eligible to participate in these programs, have been denied the full benefits of these special supplementary programs because the school system has diverted these funds to other uses. This misallocation has occurred in two ways: (1) the funds are used for the provision of regular instruction programs, rather than supplementary programs, and (2) while the funds are used to provide instructional services in predominantly minority schools, these same instructional services are provided in predominantly nonminority schools from local tax revenues and are, therefore, not supplementary.

For example, in the predominantly minority academic high schools the school system clearly appears to substitute Federal dollars for local tax revenues in providing instruction. In predominantly nonminority schools this misallocation does not occur. (See Appendix H.) In these schools, Federal monies intended to supplement the school system's basic education program appear to be used to provide basic educational services, thus thwarting the purpose of the Federal education programs and depriving educationally disadvantaged students of the compensatory educational services which they, by definition, need.

Summary

The school system has allocated its funds, maintained its facilities and distributed its instructional opportunities opportunities and personnel in a way which creates and maintains a dual school system, a system in which no one may have enough but some have decidedly less than others. Based upon these findings, I have concluded that the development and existence of this dual racially/ethnically identifiable system violates the Fourteenth Amendment, Title VI, Title IX and Section 504.

II. Denial of Meaningful Educational Services

In 1954, the United States Supreme Court, in Brown v. Board of Education, 347 U.S. 483 (1954) held that racially segregatory student assignment practices of public school districts violate the equal protection clause of the Fourteenth Amendment. The Court not only found such practices to be unlawful per se but, in analyzing the effect of such practices on equal educational opportunities, responded affirmatively to the question: "Does segregation of children in public schools solely on the basis of race, even though the physical facilities and other 'tangible' factors may be equal, deprive the children of the minority group of equal educational opportunities?" This doctrine was expressly extended to northern school systems by the Supreme Court in Keyes v. School District No. 1, 413 U.S. 189 (1973)

The Regulation issued by this Department to implement Title VI also reflects this fundamental conclusion. In addition to a general prohibition of discrimination on the basis of race, color, or national origin, § 80.3(b) of the Title VI Regulation prohibits the segregation or separate treatment of students on the basis of race, color, or national origin in any manner related to the educational process. Further, the section prohibits racially discriminatory restrictions or differences in the opportunity of students to participate in any portion of the instructional program. Even more specifically, Section 7 (Subpart B) of the Policies on Elementary and Secondary School Compliance with Title VI, March 1968, states that the responsibility of school districts for assuring that there is no segregation of students on the ground of race, color, or national origin extends to such actions of the school system as "assigning students to curricula, classes, and activities within a school." Section 8, indicating that an identical education

program is not mandated for each student, requires that school districts not deny minority students "the opportunity to obtain the education generally obtained by other students in the system."

A. Segregated Instructional Settings

On the basis of the information provided by the school system regarding classroom enrollments during the 1973-74 and 1975-76 school years, it is readily apparent that large numbers of racially/ethnically isolated and identifiable classroom settings exist within 204 of the elementary schools in the school system attended by significant numbers of students of more than one racial/ethnic group. In fact, our review revealed classroom segregation on a racial/ethnic basis in 430 grades within these schools. (See Appendix I.) Statistical analyses of the assignment patterns, together with other information provided by schools throughout the system, indicate that these assignments are unlikely to have occurred in the absence of conscious design.

Title VI prohibits student assignment practices within schools which result in racially/ethnically identifiable or isolated instructional settings unless there is a compelling educational justification for such practices. Such a justification must demonstrate that the grouping in question occurs on a limited basis (e.g., percent of total hours per day) and for a short term (e.g., one semester), and that the creation and maintenance of such groups is necessary in order to ensure the opportunity of minority students to get the full benefit of educational programs and activities offered by the system. This justification must also demonstrate that the special instructional services to be provided are different from, and more intensive or more appropriate than, those provided in the regular classroom. Such programs must be shown to advance the educational development of students enrolled so as to substantially reduce or eliminate any racial/ethnic patterns of educational achievement among students at the same age and grade level. Assignment and evaluation criteria must be clear and consistently applied, and evaluation must be made on the rate of educational growth.

During the course of our review, it has become apparent that at least 146 elementary schools within the system intentionally utilize ability grouping procedures which produce a substantial percentage of the racially/ethnically identifiable and isolated instructional settings observed. In 59 elementary

schools, racially/ethnically identifiable and isolated classes were reported without an indication that ability grouping had been used as an assignment procedure. (See Appendix I.)

Even though the use of procedures which create racially/ethnically identifiable and isolated instructional settings is presumptively discriminatory, information was collected from schools within five community school districts (CSD 10, 18, 21, 26, and 28) and analyzed in order to determine whether a compelling educational justification appeared to exist in any or all of the schools or districts in question. On the basis of a careful review of all the information collected in this regard during our investigation, it is clear that such a compelling educational justification does not exist. This conclusion is forced by several independent factors.

Despite the fact that objective measures of specific educational needs are required, criteria used to place minority students in low ability groups are often both vague and subjective. Based on information provided by classroom teachers in these five districts, objective standards for assignment are not used as an important factor in 40 percent of the assignment decisions.

Not only are many criteria vague and subjective, but virtually all objective (quantifiable) criteria utilized did not validly measure specific instructional needs but instead assessed overall educational achievement. The standardized achievement tests used as the most important factor in these assignment decisions measure reading achievement levels for students, and are not intended to be used as diagnostic instruments. In 29 percent of the segregated classes examined, the school system did not even consistently apply these improper criteria, i.e., the reading scores of students assigned did not correspond to the stated criteria for assignment. Thus, these factors fail to provide any justification for the racially/ethnically disproportionate populations of high and low groups.

A review of the educational services actually provided to minority students assigned to lower level ability groups within the same districts totally undermines any possible educational justification. In many instances, low level groups appear indistinguishable from higher level

groups in terms of the instructional methods and techniques utilized. For example, 75.8 percent of the racially/ethnically identifiable low ability groups utilize instructional methods virtually identical to those used in other groups. Of the 24.2 percent of the ability groups reporting differing instructional methods, 28.9 percent actually provided more intensive instructional programs to the higher ability groups.

Indicative of this failure to provide more specialized or more intensive instruction to low level groups is the fact that 47 percent of the students in such groups receive the same number of hours of reading instruction as students in higher level groups. Only 12.5 percent of students in these segregated lower groups were assigned teachers with more experience and higher qualifications and 18.5 percent were actually taught by teachers with less experience and lower qualifications. In 93.6 percent of the lower level ability groups, the curricular goals reported were identical with those of other groups. No modification of curricular objectives was reported which would serve to eliminate existing differences in reading levels between the groups.

In addition to the lack of a coherent educational strategy to support ability grouping schemes, racial/ethnic segregation in instructional settings clearly extends beyond the instructional area or areas which are utilized to support the grouping. For example, students in lower level ability groups purportedly created to accelerate development of reading skills continue to be placed in racially/ethnically identifiable and isolated instructional settings throughout the school day--in such classes as art, music and physical education. The self-contained classroom approach utilized by 93 percent of the schools with ability grouping strategies particularly exacerbates this situation. The remaining 7 percent of the schools place the higher level ability groups in more advantageous classroom settings.

The information collected during this review reveals that the use of ability grouping has not reduced disparities in reading achievement. No appreciable upward movement of minority students from lower level ability groups to higher levels occurs. For example, on a city-wide basis, the percentage of Hispanic students in lower level ability groups increases as the grades get higher. At the same time the gap in reading

achievement levels for Hispanic students increases significantly. The differences in reading achievement levels between minority and nonminority students increase with the same overall impact whether ability grouping is used or not. (See Appendix J.)

Another form of in-school segregation is revealed by a review of the current enrollments of classes for "emotionally handicapped," "mentally handicapped" and "educable mentally retarded students". Data reveal that, in comparison with the overall school population, minority students are significantly overenrolled in such classes. An analysis of student enrollment data provided by the school system for the 1975-76 school year reveals that, although black and Hispanic students represent 66 percent of the total elementary and junior high/intermediate school enrollment, they constitute 79 percent of elementary and junior high/intermediate school students enrolled in classes providing services to educable mentally retarded students (including classes for Children with Retarded Mental Development [CRMD], classes for educable mentally retarded students [EMR] and classes for mentally handicapped students [MH]). This overenrollment is even more severe at the high school level where black and Hispanic students constitute 60 percent of the high school population and 82 percent of the students assigned to classes for the educable mentally retarded. At the elementary and junior high/intermediate levels, male students are significantly overrepresented in these classes (38 percent as compared to 49 percent of the student population). Based on this racially/ethnically identifiable assignment pattern, the school system must provide a detailed justification of its assignment process in order to overcome a presumption of discrimination.

An even more racially/ethnically disparate assignment pattern exists in the case of classes for emotionally handicapped students at all levels of the school system. For example, at the elementary and junior high/intermediate levels black students constitute 53 percent of all students assigned to classes for emotionally handicapped students despite the fact that black enrollment is only 37 percent of the elementary and junior/high intermediate school total. Thus, black students are overrepresented at almost a 50 percent rate. Similarly, at the high school level black students constitute 56 percent of the student enrollment in these classes and only 36 percent of the total student population. Males represent 77 percent of all students assigned to classes for the emotionally handicapped at the elementary and junior high/intermediate levels and 63 percent of students so assigned within high schools.

In making assignments to the emotionally handicapped program, the system has utilized eligibility criteria which are vague and subjective, thereby allowing race/ethnic and sex stereotypes to influence the assignment/labeling process. Language background also seems to contribute directly to the over-enrollment of Hispanic and other national origin minority group students. For example, several community school districts reported that over 70 percent of the Hispanic students assigned to one of these programs had severe language difficulties; two districts reported 100 percent of the Hispanic students in this category.

The assignment pattern to "special progress" classes, where students receive an accelerated academic program, provides a marked contrast. Special progress classes operated at the junior high/intermediate school level show an enrollment pattern in which minority students are dramatically under-enrolled. City-wide enrollment of nonminority students in these courses approximates 65 percent while the enrollment of black and Hispanic students is 21.7 percent and 9.5 percent, respectively--almost exactly the reverse of the racial/ethnic composition of the school population as a whole. Assignment practices and other factors related to the operation of these classes is discussed below.

Mislabeling of students as "mentally retarded or handicapped" results in the assignment of students to educational programs which are less suitable to their actual educational needs and aptitudes. The serious and possibly irreparable harm to the educational development of these students which often occurs as a result of mislabeling has been extensively documented in Issues in the Classification of Children, a report by the Project on Classification of Exceptional Children. Preliminary assessments raise serious questions about the range and quality of special education services provided to all handicapped students. For example, in the six community school districts identified above, classroom teachers reported over 1450 students in regular classroom settings who may be in need of special education services. Pending issuance of final regulations implementing Section 504 of the Rehabilitation Act of 1973, this Office will continue to gather and assess information relevant to this educational program area.

B. Denial of Educational Opportunity Through
Language Barriers

A final aspect of the overall denial of meaningful educational experience and opportunity to minority students enrolled in the elementary and junior high/intermediate schools of the school system occurs through the exclusion of large numbers of students

whose primary language is other than English from full access to the instructional programs offered by the school system.

On May 25, 1970, OCR issued a policy statement (35 Fed. Reg. 11595) which provides, in pertinent part, that:

Where inability to speak and understand the English language excludes national origin-minority group children from effective participation in the educational program offered by a school district, the district must take affirmative steps to rectify the language deficiency in order to open its instructional program to these students.

The Supreme Court, in Lau v. Nichols, 414 U.S. 563 (1974), cited with approval the Title VI Regulation (45 CFR Part 80) and guidelines in holding that it is unlawful for a school district which receives Federal funds, to fail to take "affirmative steps" to eliminate the barriers to full enjoyment and benefit of the school system's programs faced by non- or limited-English speaking national origin minority students.

Our review indicates that the school system has failed to identify large numbers of Spanish-speaking, Greek-speaking, Italian-speaking and Asian-language and other non-English speaking students despite requirements of Title VI and the consent decree entered in ASPIRA v. Board of Education, 72 Civ. 4002 (S.D. N.Y. 1974). Information collected during our investigation demonstrates that the language identification and assessment procedures currently used by the school system are wholly inadequate and, in fact, result in inconsistent and inappropriate identification of limited and non-English speaking students. For example, information provided by the six community school districts identified above during the 1975-76 school year shows that students identified by the school system as having severe English language difficulty consistently score within the same range on the English language portion of the Language Assessment Battery (LAB) used by the school system as students reported as having no language difficulty. At some grade levels, students reported as having severe English language difficulties significantly outscore students reported to have no language difficulty. This information has been confirmed by cross-checking 1975-76 grade-equivalent reading scores of students in the school system.

Data provided to the U. S. Office of Education on Title VII applications submitted by 22 community school districts (CSD 2, 6, 8, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 23, 24, 27, 28, 29, 30 and 32) showed a total of 35,809 non-English speaking students in the elementary schools in community school districts needing special language services. Information provided by the school system to this Office for the 1975-76 school year showed that 30,618 students in these districts are receiving services of some type. Thus, 16 percent of the national origin minority students asserted to need services do not receive them. Information provided by the other 10 community school districts also shows that large numbers of students reported as having moderate or severe language difficulties do not receive services of any type.

While Spanish is the primary language of the vast majority of non-English speaking students in the school system, this pattern of failing to serve national origin minority students identified as needing services extends to several other language backgrounds. For example, 805 Greek-speaking students in Community School District 30 were reported as needing special language services; only 319 or 40 percent of these students were reported as actually receiving special language services of some kind.

In addition, data collected during our review indicates that instruction provided in some of the programs identified as "ESL" or "bilingual" is insufficient to overcome the barriers to educational participation for limited or non-English speaking students established by the school system.

One consequence of this denial of educational access is the extremely high drop-out rate for Hispanic students. On the basis of data supplied by the school system during the 1975-76 school year, the tenth grade attrition rate for Hispanic students is 30 percent higher than the rate for black students and 350 percent higher than the rate for nonminority students. The eleventh grade attrition rate for Hispanic students is also substantially higher than the rate for nonminority students.

The severe educational consequences of the failure to adequately serve substantial numbers of these students is shown by a review of English language reading scores which reveals that students with limited or non-English speaking language backgrounds show substantially less progress than other students in the development of reading skills.

Summary

On the basis of the information collected during our review, I have concluded that minority students, on the basis of their race, color, and national origin, have been denied meaningful educational experiences within the community school districts and special schools of the system, in violation of the Fourteenth Amendment and Title VI. A dual system of education has emerged within the school system with a higher, more educationally desirable track for nonminority students. The two tracks are established and maintained by assignment and grouping systems which consistently consign disproportionate numbers of minority students to racially/ethnically identifiable, educationally disadvantaged instructional settings (both low ability groups and special education classes) and by the failure to provide adequate services to large numbers of national origin minority students (including Hispanic, Italian, Greek, Asian) who are denied access to education because of their language backgrounds.

III. Restriction of Educational Alternatives in Secondary Programs

During the course of our investigation, it has become apparent that minority and female students are excluded from certain academic and vocational programs.

In some instances, minority and female students have been directly denied access to secondary school programs. In addition, minority and female students have been denied access to programs and courses of study because of a failure to meet particular admission requirements. Often, the failure to meet these requirements is the direct result of prior discriminatory treatment including exclusion from courses which are prerequisites for admission. This practice violates 45 CFR 80.3(b) which provides that recipients may not deny an individual any service, segregate any individual, treat any individual differently from others in determining admission requirements to programs or deny, in any other manner, any individual an opportunity to participate in a program or course of study on the basis of race, color, or national origin. Similar provisions concerning discrimination on the basis of sex are found at 45 CFR §§ 86.21, .31, .35 and .36.

The school system has divided its secondary programs into two separately administered parts: the junior high/intermediate schools administered by the community school districts and the academic and vocational high schools administered by the Office of High Schools of the Board of Education.

Detailed information concerning grouping practices, tracking, and guidance counseling was collected during the on-site phase of the investigation. This information indicates that minority children are overwhelmingly assigned to the lower academic tracks in the junior high/intermediate schools. One hundred of the school system's 193 junior high/intermediate schools contain significant numbers of racially/ethnically identifiable classroom settings. Within the six community school districts identified above our analysis revealed that 60 percent of all 9th grade courses offered were racially/ethnically identifiable.

The provision of inadequate guidance and counseling services contributes to the existing assignment pattern. For example, an analysis of the predominantly minority schools compared with the predominantly nonminority schools within these schools has revealed that predominantly minority junior high/intermediate schools have higher student-to-counselor ratios than predominantly nonminority junior high/intermediate schools.

A review of information provided during the 1975-76 school year by 15 junior high/intermediate schools within the six community school districts listed above reveals a much higher guidance counselor/student ratio in the predominantly minority schools than in the predominantly nonminority schools: 1,059 students per counselor in the predominantly minority schools compared to 741 students per counselor in the predominantly nonminority schools--a difference of almost 30 percent. (See Appendix K.)

This disparity is further aggravated by the allocation of more guidance time per student in the predominantly nonminority schools than in the predominantly minority schools. A comparison of the number of students to be served for each guidance counselor hour reveals that, in five predominantly minority schools, higher numbers of students per counselor hour are served than in any of the predominantly nonminority schools. On the other hand, three predominantly nonminority schools serve less than half as many students per counselor hour as are served in the predominantly minority schools. Overall, in the nine predominantly minority schools, there are 49 students to be served for each available counseling hour compared to 34 students per hour in the predominantly nonminority schools. (See Appendix L.)

Additionally, the range of guidance and counseling services reported by counselors in predominantly minority junior high/intermediate schools is more limited than the services

reported in predominantly nonminority schools. Given the reported incidence of disciplinary problems in the minority schools, it is striking that it is the predominantly nonminority junior high/intermediate schools which report more individual preventative and evaluative counseling and better referral systems to outside agencies. Guidance programs in predominantly nonminority schools showed a greater emphasis on career and academic counseling; predominantly minority schools reported less extensive and fewer individualized services in their academic and career counseling programs.

Where programs do exist in the predominantly minority schools, they are characterized by the counselors as unstructured and incomplete, in contrast to the more structured, complete program reported by counselors in the predominantly nonminority schools. Our investigation revealed that more guidance time is devoted to career and academic counseling in the predominantly nonminority schools than in the predominantly minority schools. For example, seven predominantly minority schools receive less than five hours per week in career and academic counseling while five predominantly nonminority schools receive from thirteen to thirty hours per week in career and academic counseling. (See Appendix M.)

Within the aforementioned community school districts, it was found that predominantly nonminority junior high/intermediate schools have far more extensive parental involvement programs than the predominantly minority schools. This disparity exists in the provision of special workshops and parent/student conferences, and in disseminating information to parents. For example, 60 percent of the guidance counselors reported having group parent meetings in the predominantly nonminority junior high/intermediate schools in contrast to 20 percent of the guidance counselors who reported having group parent meetings in the predominantly minority schools.

Forty-seven percent of the counselors in the predominantly nonminority schools reported disseminating information in addition to the high school directory to parents; none of the counselors in the predominantly minority schools reported sending any additional information home to the parents. The high school orientation programs in the predominantly nonminority schools were found to be much more extensive and more oriented to the individual students. In predominantly

minority junior high/intermediate schools, high school orientation programs were less extensive and more group-oriented. In addition, fewer outside resources are utilized in the delivery of both academic and career counseling in predominantly minority junior high/intermediate schools than in predominantly nonminority junior high/intermediate schools.

Language also appears to be a barrier to the delivery of guidance services. Students with primary language abilities in a language other than English are not likely to receive adequate guidance services. For example, during the 1975-76 school year only 4 percent of the guidance counselors employed by the junior high/intermediate schools in the six community school districts reported an ability to communicate fluently in languages other than English. In contrast, 10 percent of the student enrollment in these schools is Spanish language dominant. Thus, the ratio of Spanish-fluent counselors to Spanish-speaking students is 1:2228 or approximately three times the ratio for English-speaking students (1:799).

Female students are also adversely affected by guidance and counseling procedures used by the school system. This manifests itself in channeling of female students to sex-stereotyped courses of study which effectively precludes the pursuit of a full range of studies on the high school level. The counseling program has failed to deal adequately with the placement of female students in sex-identifiable classes, or the failure of females to enroll in advanced high school math classes. Despite the fact that female students are seriously underenrolled in advanced high school math classes, counselors consistently reported no need for special efforts to counteract sex stereotyping.

The channeling process on the junior high/intermediate school level predictably leads to race and sex identifiable high schools and high school programs.

At the high school level, race and sex identifiable schools show the discriminatory pattern of human, financial and

curricular resource allocation discussed in section I of this letter. One major area of noncomparability--course offering--also contributes directly to the educational disadvantage suffered by minorities and women denied admission to high schools of their choice.

The race/ethnic and sex identifiable high schools to which large numbers of these students are channeled fail to offer the type of curricula many students have been seeking. Within the schools, language barriers continue to prevent full educational participation by large numbers of national origin minority children, and the grouping discussed earlier continues in basic academic subjects. Vocational schools display the same discriminatory enrollment characteristics and both academic and vocational course offerings vary stereotypically with the sex of the students admitted. As students attend high school, the cumulative effects of prior discrimination begin to be manifested not only by differences in academic achievement levels but by attrition rates. (See Appendix N.)

An analysis of the racial/ethnic composition of the school system's three special admissions academic high schools (Brooklyn Technical High School, Bronx High School of Science, Stuyvesant High School) reveals that minority students are seriously underrepresented. For example, 62 percent of those students graduating during the 1975-76 school year from junior high/intermediate schools within the six community school districts listed above were minority; 39 percent nonminority. The minority student application rate from these schools to the three special admissions academic high schools was 59 percent; the nonminority student application rate was 41 percent. Of those who applied and who are actually attending these three high schools, 42 percent are minority and 58 percent are nonminority. Thus, the rate of attendance for those who applied was twice as high (35 percent) for nonminority students as compared with the rate for minority students (17 percent). Reviewing the rate of attendance for Hispanics, the rate is approximately three times higher for nonminority students (35 percent to 11 percent) than for Hispanics! (See Appendix O.)

Nonminority students receive entrance exam preparation courses at a rate which is substantially higher than that afforded minority students. Of those junior high/intermediate

school students applying to the special admission academic high schools, 41 percent of nonminority students had participated in examination preparation courses as compared with 28 percent of minority students. Exam preparation appears to have been a significant contributing factor to the rate of attendance for these applicants. Of those applicants who attended the special admissions academic high schools, 57 percent participated in exam preparation courses.

This exclusionary pattern is also found for female students who are underrepresented in special admission academic high schools. For example, while female students represented 51 percent of students graduating from these junior high/intermediate schools, they represented only 44 percent of students applying for admission to the three special admission academic high schools, and only 38 percent of those students who attended. Their rate of attendance was 20 percent lower than those of males who applied. Although 953 female students in the junior high/intermediate schools indicated an interest in pursuing some area of advanced academic course work, only 202 were admitted to high schools offering a full range of such courses.

In addition to the systematic exclusion of minority students and female students from particular academic programs, our review shows that female students are also excluded from particular vocational programs.

There are 24 vocational high schools currently operated by the school system. Twenty-one of these are clearly sex identifiable and three are sex integrated. Of the 21 sex identifiable vocational high schools, 14 are virtually all male and 7 are virtually all female. Thus, 85 percent of all vocational high schools are sex segregated.

Female students represent 51 percent of those students applying for admission to vocational high schools but only 45 percent of those attending. The rate of attendance for female students who applied (43 percent) is thus significantly lower than for male students who applied (55 percent).

While females make up 45 percent of the total vocational school population, they are concentrated in half as many schools as male vocational high school students. (See Appendix P.) One effect of this concentration is to limit

the course offerings available to female students. Of the predominantly female vocational high schools, 14 percent (1 of 7) offer a college preparatory program as a major. In comparison, 50 percent of the predominantly male schools offer a college preparatory major. Female vocational students are thus limited in their opportunity to seek post-secondary education. This substantial difference in access to college preparatory programs on the basis of sex has a strong adverse impact on future educational and career opportunities of female students.

Sex stereotyping of vocational school courses appears pervasive. The predominantly male schools offer such courses of study as drafting, mechanics and electronics, while the predominantly female schools offer such courses as nursing, cosmetology and stenography. Even in the sex integrated schools, females are overwhelmingly enrolled in courses such as nursing, cosmetology, stenography and business education, while males are pursuing automotive, plumbing, electrical installation and radio and television mechanics. For example, in Queens Vocational High School with a 50 percent male-50 percent female enrollment, 10 of 12 courses of study offered show single-sex enrollments (100 percent male or female) and the remaining two are sex identifiable (88 percent and 99 percent). (See Appendix Q.) In-school segregation in the sex integrated vocational high schools even extends to the academic courses offered at those schools. For example, 8 of the 12 English courses in the Queens Vocational High School are single sex (100% male or female) and 4 are sex identifiable.

Female sex identifiable academic high schools receive a sex stereotyped and more limited range of guidance and counseling programs than is offered in predominantly male or sex integrated academic high schools. For example, Washington Irving High School (100 percent female) offers a narrower range of guidance services than DeWitt Clinton (100 percent male). In DeWitt Clinton there are 26 students for each hour of counseling services as contrasted with 47 students for each hour in Washington Irving. In addition, 70 percent of the guidance and counseling time in DeWitt Clinton is devoted to career and academic counseling as compared to 55 percent in Washington Irving.

Summary

As minority and female students move from the elementary schools into the secondary school level, the dual track discussed earlier is preserved and strengthened by several inter-connected factors: the limitations imposed earlier on

the educational opportunities and achievement of minority students by the school system's discriminatory practices at the elementary school level; the utilization of counseling and course enrollment procedures that channel minority and female students to lower level and stereotypical courses, and nonminority students to special progress classes; the allocation of inferior academic and non-academic counseling services to minority and female students and the consequent impact on the high school application choices made; the examination and admissions procedures of the special entrance academic high schools, including access to examination preparation programs; and the restriction on curricular opportunity created by the distribution of high school course offerings.

On the basis of this investigation, I have concluded that the school system has denied minority and female students the opportunity to participate fully in the academic and vocational programs offered other students by its admission, assignment and guidance counseling practices. The result of these practices has been to create separate and unequal educational programs in violation of Title VI and Title IX.

IV. Discriminatory Discipline Practices

The Title VI Regulation provides that individuals shall not be subjected to different treatment on the basis of race, color or national origin. Specifically, 45 CFR §80.3(b) provides that:

A recipient ... may not, ... on ground
of race, color, or national origin;

(iii) Subject an individual to segregation
or separate treatment in any matter
related to his receipt of any service....

This Department applies this concept to the area of student discipline.

According to information provided by the school system, student discipline is administered through the imposition of a variety of disciplinary sanctions, including such mild punishments as notes to parents, reprimands, and detention and more severe punishments such as suspension and expulsion. On the basis of our study of the data on disciplinary actions provided by the school system, this Office has determined that disproportionately large numbers of minority students are being kept out of school as a disciplinary measure more frequently and for longer periods of time than are nonminority students. Our

study of the figures on student disciplinary actions during the 1974-75 school year shows that approximately 21,000 students were suspended at least once during the year.

Although minority students constitute 67 percent of the total enrollment for the school system, they are subjected to 82 percent of the suspensions. They further account for 83 percent of the suspension days. Thus, the rate of suspension of minority students is nearly 23 percent higher than that of nonminority students, while the average number of suspension days per 100 student attendance days is 6.8 for black students, 4.2 for Hispanic students and 2.1 for nonminority students. Similarly, for every 10,000 student attendance days, black students miss three days of school, Hispanic students two days of school and nonminority students only one day of school because of suspension. (See Appendix R.)

Accordingly, black students, who represent 36 percent of the system-wide enrollment, comprise 55.3 percent of all students suspended. Nonminority students, who make up 33 percent of the student population, account for only 17.4 percent of all students suspended. Thus, black students are suspended at approximately three times the rate of nonminority students.

In addition to the overall disparate impact of the school system's disciplinary process, an analysis of specific categories of punishments reveals an even greater racial/ethnic impact. Data collected by category of offense and corresponding punishment indicates that black students receive 3-5 day suspensions at twice the rate of nonminority students punished for the same offense. Correspondingly, nonminority students receive a milder punishment, 0-2 day or shorter suspensions at twice the rate of black students for the same offense. Spanish-surnamed students are suspended for 3-5 days at four times the rate of nonminority students. (See Appendix S.)

A racially/ethnically discriminatory pattern is clearly discernible by comparing the types of punishments given minority as compared to nonminority students for all categories of offenses. For example, during the 1975-76 school year nonminority high school students committing disciplinary offenses received 32 percent of the least severe punishments imposed by the school system (e.g., note to parent), and only 23 percent of the suspensions. This pattern of imposing more severe

punishments on minority students, in terms of both the type and length of punishment, consistently recurs for various categories of offenses. For example, the average suspension days for a minority junior high/intermediate school student suspended during the 1975-76 school year for offenses such as fighting, physical assault, possession of weapons, theft, vandalism, smoking and cutting followed a similar racial pattern. Our study of the referral of junior high school students who have committed disciplinary offenses shows that nonminority students constitute 45 percent of those disciplined through referral to an agency outside of the school for counseling but only 23 percent of those students being disciplined by suspension.

These figures evidence a pervasive practice of punishing students on the basis of race and ethnicity. The unequal application of suspension and other disciplinary actions is facilitated by the school system's failure to clearly delineate the severity of the punishment to be applied for a particular offense. Circular No. 103 prescribes in general terms limitations on disciplinary actions: suspensions are limited to five days and only the principal has the authority to suspend. The circular does not detail the criteria which would differentiate two days of suspension from five days of suspension. The choice of punishment, including length of suspension for a given offense, is discretionary.

The disparate treatment of minority and male students in the disciplinary process has resulted in serious and, often, irreparable harm to their educational development.

On the basis of the information discussed above, I have concluded that minority students, on the basis of their race/ethnicity: (1) have been disproportionately punished more often and more severely for the same offense and (2) have, through the discriminatory application of the suspension sanction, been kept out of school more often and for longer periods of time than nonminority students.

During the course of our investigation, several complaints were received alleging that students have been assigned to schools on the basis of their race and national origin

within certain community school districts and among the academic high schools. Our investigation of these complaints is continuing and you will be notified of our findings as soon as the investigation has been completed.

I am, of course, aware of the fact that these findings come at a time when the school system is experiencing great difficulty due to the City's fiscal problems. As I indicated in my November 9, 1976, letter to you, we are aware of the fact that this financial crisis has resulted both in the layoff of substantial numbers of classroom teachers and in the elimination of large numbers of guidance counselor positions. Nevertheless, our findings regarding discrimination in the provision of guidance services to minority and female students require that a corrective action plan be developed which ensures that the effects of past discrimination will be overcome rather than continued.

This letter together with my letter of November 9, 1976, sets forth a substantial number of violations of Title VI, Title IX and Section 504, all of which must be corrected through the submission and implementation of a voluntary compliance plan accepted by this Office. I am also notifying the U.S. Commissioner of Education of those findings pertaining to the use of Federal funds outlined in section I of this letter.

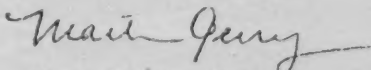
In view of the conclusions outlined above, I must request that the Board of Education submit a plan to this Office, within sixty (60) days, detailing the steps it will take to remedy the various Title VI, Title IX and Section 504 violations set forth in this letter. While I realize that 60 days is not an extensive time period, this schedule has been imposed upon the Department and school districts by the September 20, 1976, order of the United States District Court for the District of Columbia, in the case of Brown v. Mathews (Civil No. 75-1068, July 20, 1976). In that case Judge Sirica ordered the Department to complete certain investigations, including negotiations and, where necessary, initiation of enforcement proceedings, on a strict timetable. (See paragraph A of July 20, 1976, order.) This order was modified on September 20, 1976, to allow for the completion of the New York City investigation on or before January 18, 1977; however, the Court did not extend the time period for negotiation.

With this schedule in mind, I reiterate the offer contained in my November 9, 1976, letter of findings to provide all possible technical assistance to the Board of Education in formulating a voluntary compliance plan.

These findings, and the concomitant request for a compliance plan, are directed to the Board of Education of the City of New York. I am aware that many of the findings, and undoubtedly many of the necessary remedial actions, concern the community school districts. However, it is the Department's position that, notwithstanding the decentralization law (Article 52A Education Law), the Board of Education and the Chancellor are ultimately responsible for the overall operation of the system--including compliance with Federal statutes and regulations. I will, however, be forwarding copies of this letter to each community school district and will provide upon request more detailed information related to any of the community school districts where specific violations have been identified.

Again, let me express our appreciation for the cooperation which has been consistently extended by those members of your staff with whom we have worked. Please be assured that this Office, consistent with its statutory responsibilities, will make every effort to assist the school system in developing a plan to correct the violations which have been identified.

Sincerely,



Martin H. Gerry
Director
Office for Civil Rights

cc: Chairman, U. S. Commission on Civil Rights
U. S. Commission of Education
Superintendents and School Boards of
the 32 Community School Districts

Appendix A

MAJOR SOURCES OF DATA ANALYZED DURING THE NEW YORK CITY EQUAL EDUCATIONAL SERVICES REVIEW	YEARS
New York State Basic Educational Data System (BEDS) Teacher File for NYC	1971-72, 1972-73, 1973-74, 1974-75, 1975-76
New York State Basic Educational Data System (BEDS) School Information File for NYC	1971-72, 1972-73, 1973-74, 1974-75, 1975-76
New York State Pupil Evaluation Program (PEP) Test Results (Reading and Math)	1973-74
City of New York Department of Health "Report of Public Inspection Program-Fall 1974" (Health and Safety Violations)	1974-75
EEO-5 Survey	1974-75, 1975-76
Title VII ESEA (Bilingual) Applications	1975-76
Office for Civil Rights (OCR) 101-102 Survey	1973-74
Bureau of Child Guidance (BCG) Information	1974-75
NYC Board of Education's: Language Census	1972-73, 1973-74
Ethnic Census	1972-73, 1973-74
School Profiles Information	1973-74, 1974-75, 1975-76(part.)
Standardized Achievement Test Results (Reading and Math)	1972-73, 1973-74, 1974-75 1975-76
Metropolitan Achievement Test (MAT) Demographic Information (grades 2-5 in 227 selected elementary schools)	1973-74
Salary Information	1973-74
Teacher Absence File	1973-74
Pupil Attendance File	1973-74
Poverty Index Report (Title I)	1973-74
List Notices of Transfer File	1973-74
Children with Retarded Mental Development (CRMD) Information	1974-75
Language Assessment Battery (L.A.B.) Information (partial)	1976-77

Appendix A (continued)

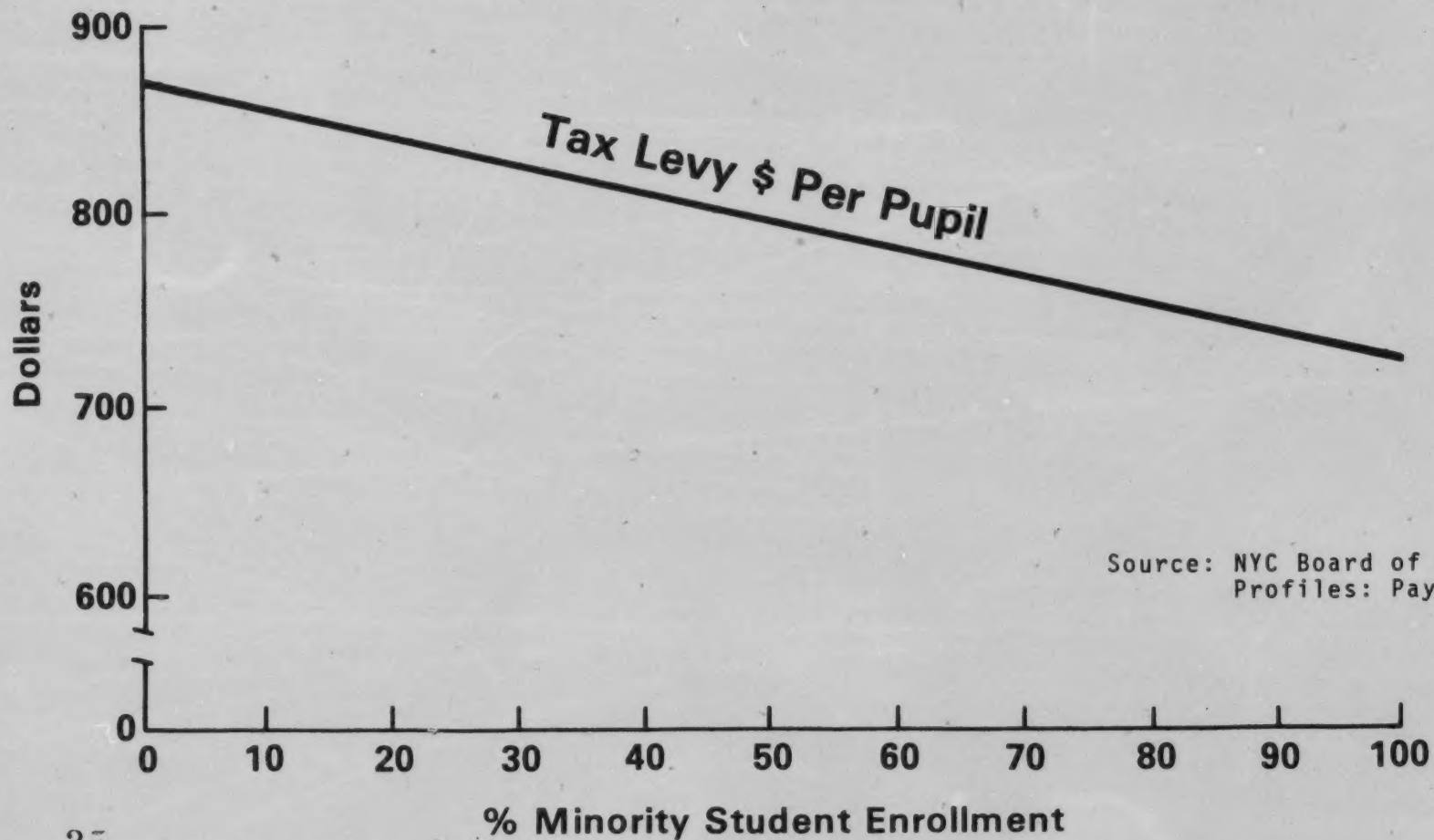
Office for Civil Rights Special Compliance Reports 1975-76
 (Elementary, JHS/IS, High Schools)

Office for Civil Rights Special Data Collection Instru-
 ments (utilized in selected schools and/or districts):

Pupil Folder Survey	1973-74
Reading Instruction Survey	1973-74
Citywide High School Survey	1973-74
Detailed School Level Data Collection (in 21 selected high schools)	1975-76
Detailed Classroom Level Data Collection (in 21 selected high schools)	1975-76
Detailed Teacher Level Data Collection (in 21 selected high schools)	1975-76
Detailed Guidance Data Collection (in 21 selected high schools)	1975-76
Detailed School Level Data Collection (in selected elementary and junior high/ intermediate schools in Community School Districts 9, 10, 18, 21, 26, 28)	1975-76
Detailed Classroom Level Data Collection (in selected elementary and junior high/ intermediate schools in Community School Districts 9, 10, 18, 21, 26, 28)	1975-76
Detailed Teacher Level Data Collection (in selected elementary and junior high/inter- mediate schools in Community School Districts 9, 10, 18, 21, 26, 28)	1975-76
Detailed Guidance Data Collection (in selected junior high and intermediate schools in Community School Districts 9, 10, 18, 21, 26, 28)	1975-76

APPENDIX B

New York City School System
Per Pupil Expenditures of Tax Levy Money
for Instructional Salaries
Academic High Schools 1974-75



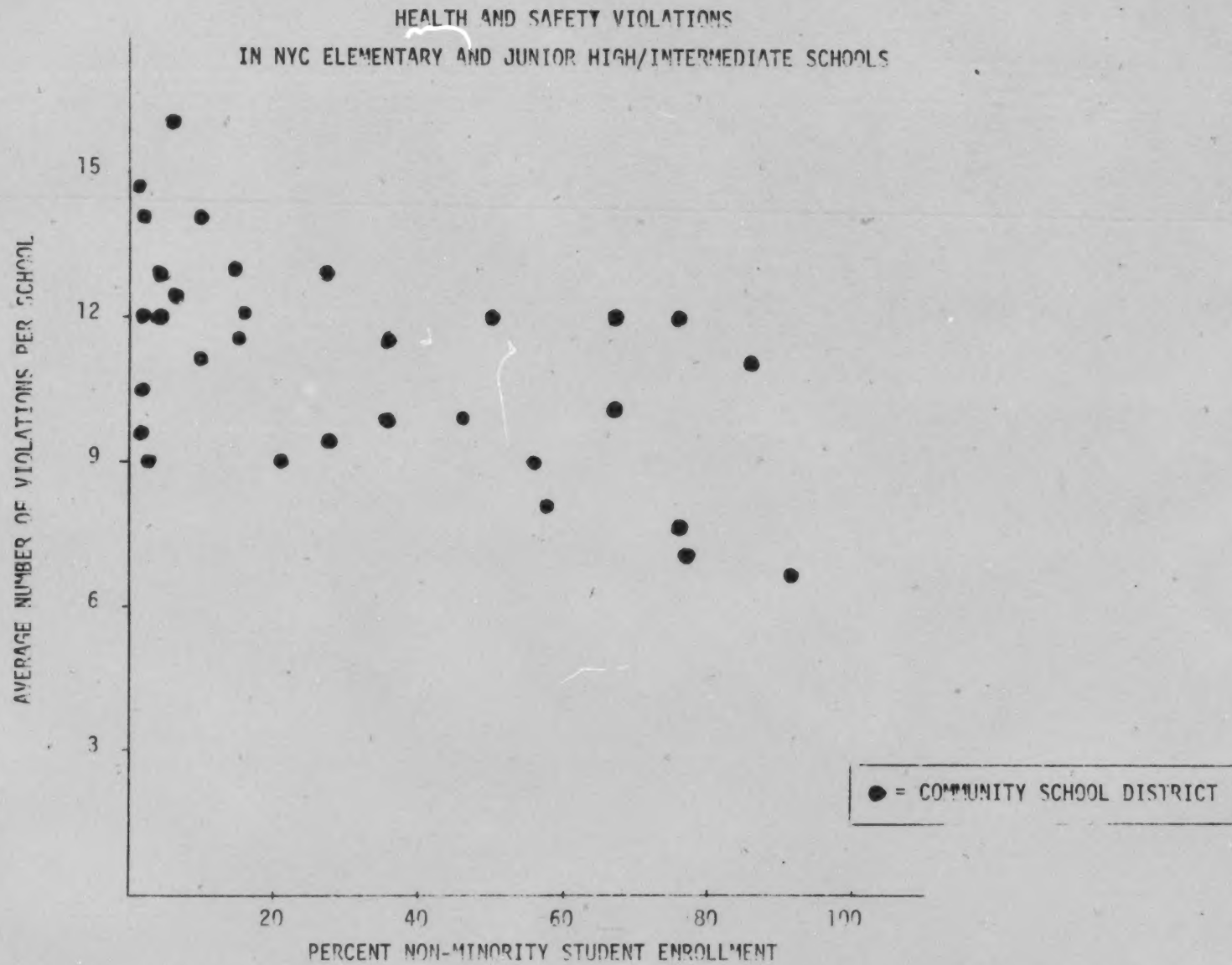
Source: NYC Board of Education
Profiles: Payroll Data

APPENDIX C

CONDITION OF FACILITIES AND EQUIPMENT IN NEW YORK CITY SCHOOLS

FACILITY/ EQUIPMENT	EXCELLENT		EXCELLENT or GOOD		FAIR or POOR		POOR	
	1-10%	91-100%	1-10%	91-100%	1-10%	91-100%	1-10%	91-100%
Percent Minority								
HEATING	33%	21%	80%	59%	20%	27%	2%	6%
A.V. EQUIPMENT	39%	16%	78%	69%	22%	31%	0%	5%
TEXTBOOKS	45%	17%	92%	80%	8%	18%	0%	1%
LIGHTING	53%	28%	90%	84%	10%	16%	2%	3%
REGULAR CLASSROOMS	45%	19%	82%	72%	18%	28%	0%	3%
CLASSROOM FURNITURE	24%	9%	72%	67%	26%	31%	8%	4%
LIBRARY BOOKS	49%	28%	96%	90%	4%	8%	0%	1%
SCIENCE LABS	13%	6%	28%	26%	10%	16%	2%	5%

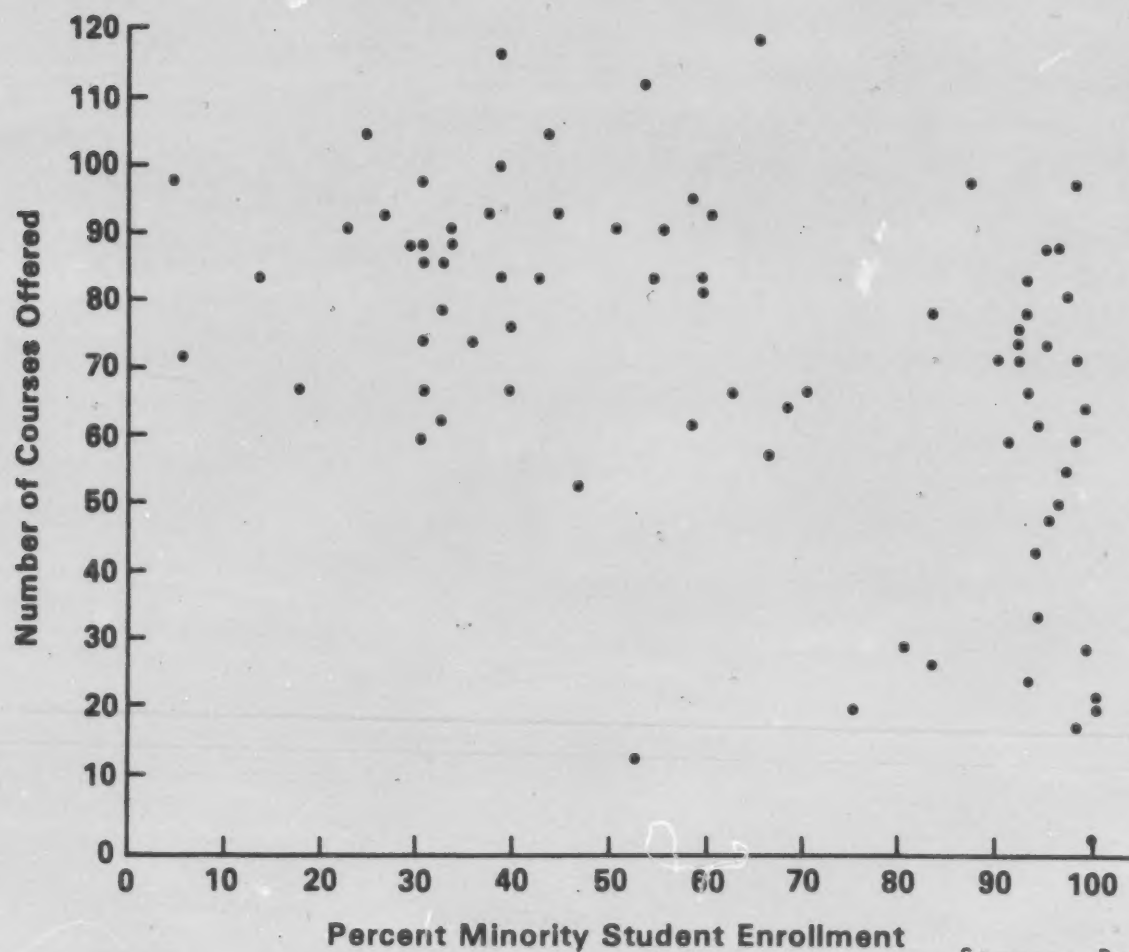
Source: Office for Civil Rights
Special Compliance
Report, 1975-76



SOURCE: NYC DEPT. OF HEALTH; REPORT OF PUBLIC SCHOOL INSPECTION PROGRAM, FALL 1974

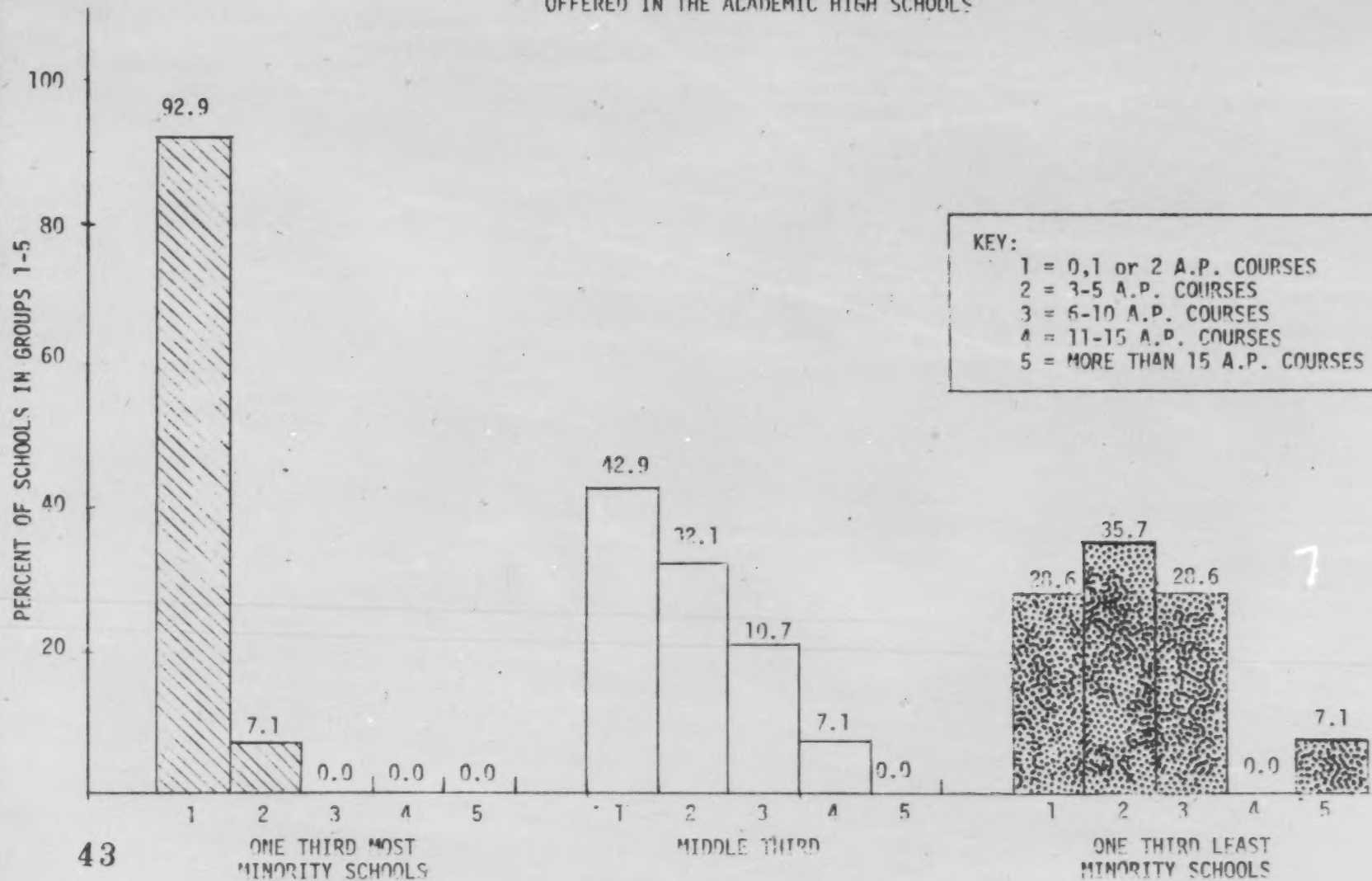
APPENDIX E

New York City School System
Number of Courses Offered in Academic High Schools



Source: Basic Educational
Data System, 1975-76

VARIATIONS IN ADVANCED PLACEMENT COURSES
OFFERED IN THE ACADEMIC HIGH SCHOOLS



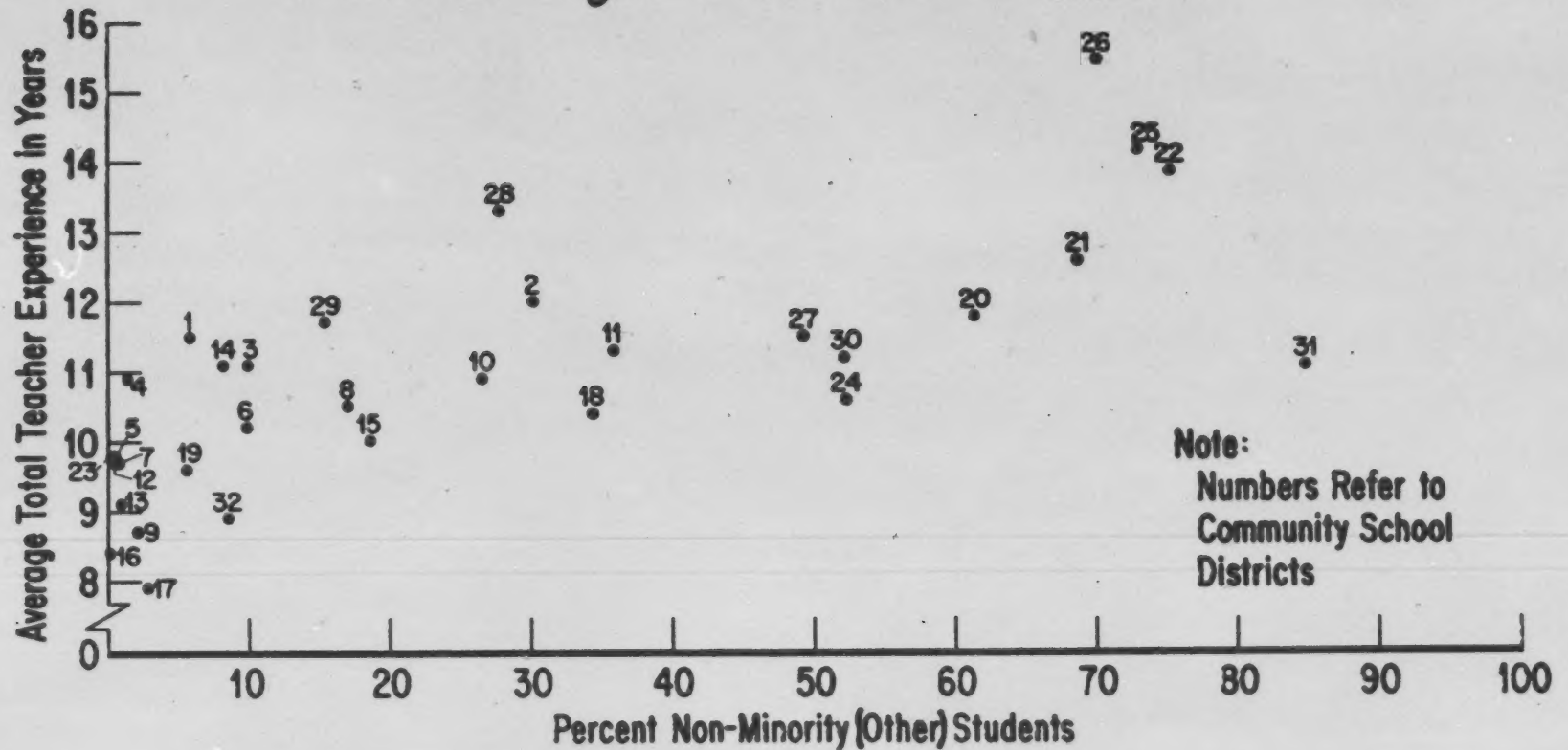
SOURCE: BASIC EDUCATIONAL DATA SYSTEM, 1975-76

New York City

Relationship of Teacher Experience to

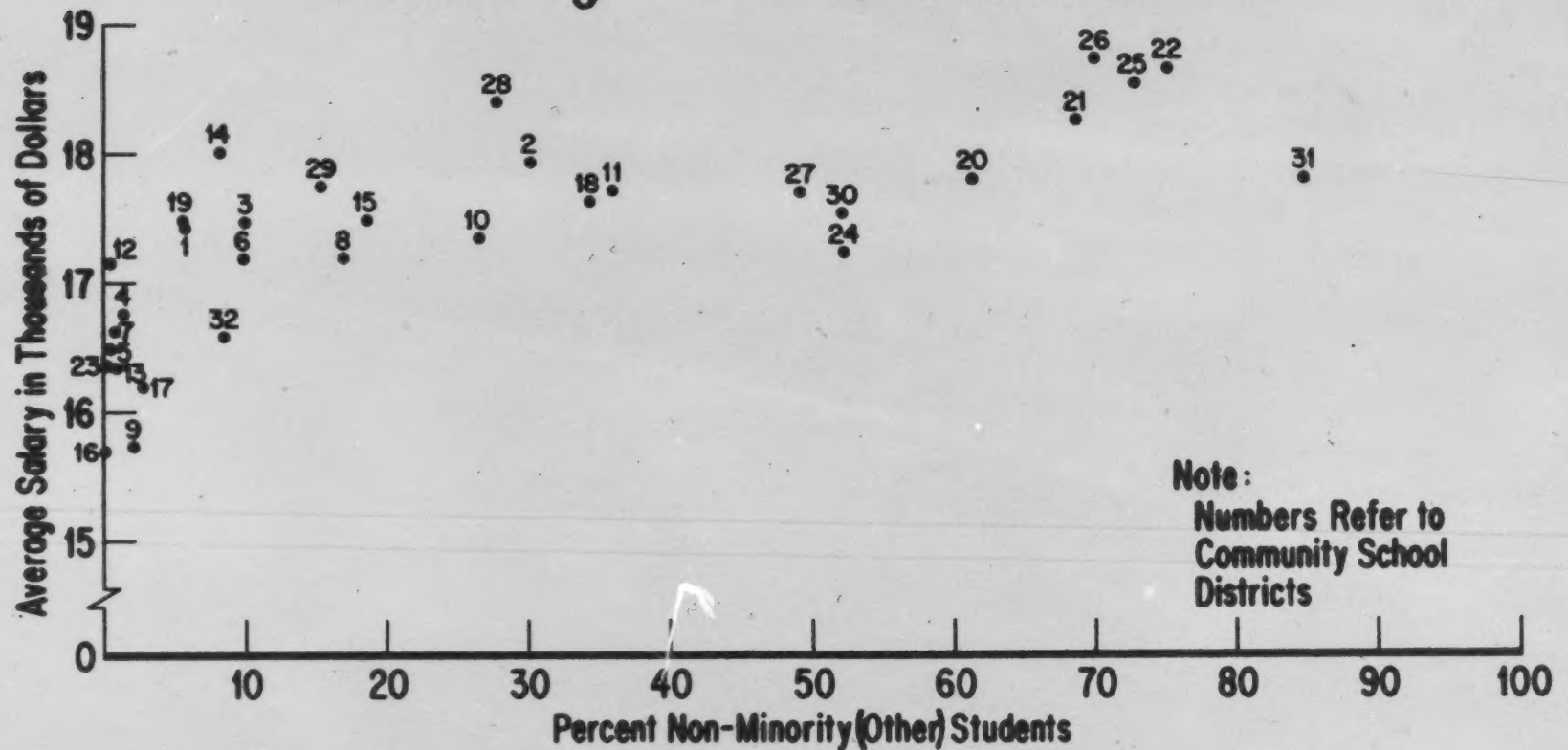
Race/Ethnicity of Students

Junior High Schools, 1975-1976



SOURCE: BASIC EDUCATIONAL DATA SYSTEM, 1975-76

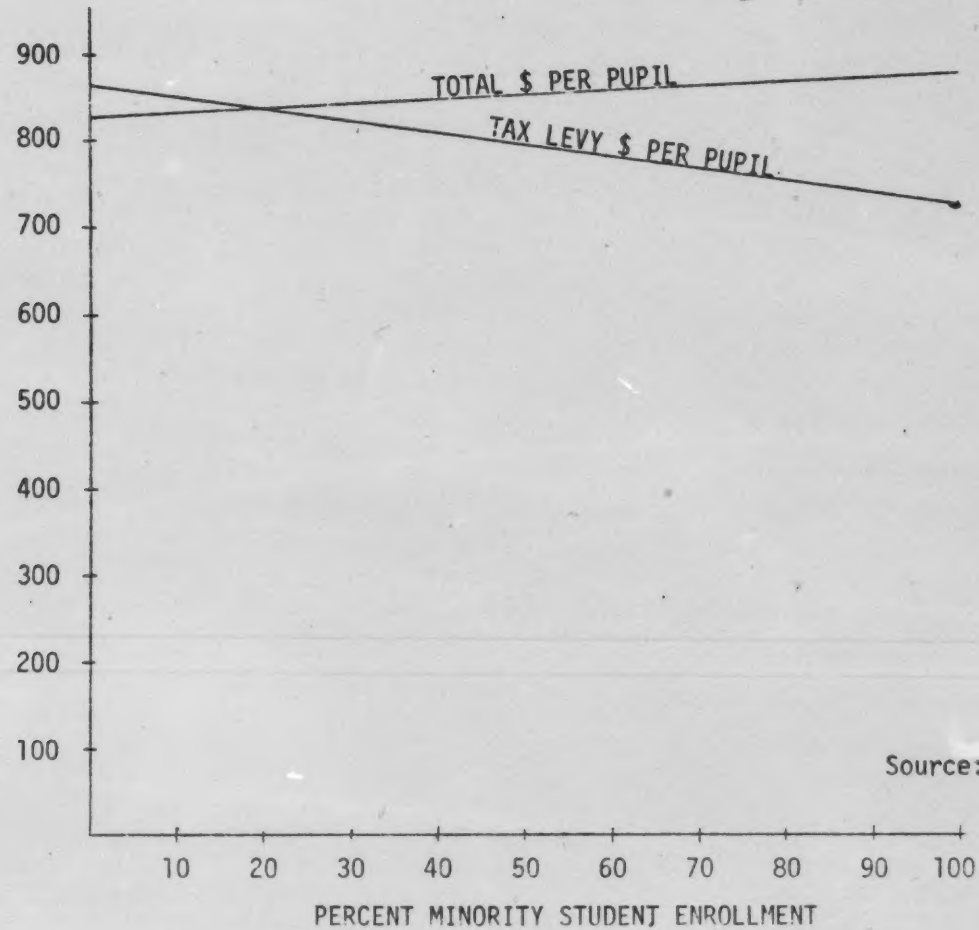
New York City
Relationship of Teacher Salary to
Race/Ethnicity of Students
Junior High Schools, 1975-1976



SOURCE: BASIC EDUCATIONAL DATA SYSTEM, 1975-76

PER PUPIL EXPENDITURES OF TAX LEVY MONEY
FOR INSTRUCTIONAL SALARIES

ACADEMIC HIGH SCHOOLS 1974-75



Source: NYC Board of Education
Profiles: Payroll Data

APPENDIX I-1

SEGREGATED INSTRUCTIONAL SETTINGS 1973-74 SCHOOL YEAR

SCHOOLS REPORTING ABILITY GROUPING

<u>DISTRICT</u>	<u>SCHOOL</u>
1	20
1	34
1	61
1	63
1	134
2	111
2	116
2	191
6	98
6	132
8	71
8	72
8	119
10	8
10	26
10	32
10	33
10	86
10	95
10	122
11	41
11	68
11	83
11	103
11	105
11	108
13	9
15	58
15	94
15	169
15	172
17	249
18	208
18	233
18	242
18	244
19	63
19	65
19	214
19	273
20	104
20	105
20	127

SCHOOLS REPORTING NO ABILITY GROUPING

<u>DISTRICT</u>	<u>SCHOOL</u>
1	122
2	11
2	59
2	190
2	198
3	9
3	75
3	87
3	199
6	152
6	173
6	189
10	81
10	91
11	16
11	78
11	87
11	89
11	153
12	102
14	110
14	132
18	272
18	279
20	102
21	99
21	188
21	216
21	226
22	119
22	139
22	152
32	116
24	88
24	229
25	20
25	165
25	209
26	162
26	177
26	203
27	42
27	62

APPENDIX I-1 (cont'd.)

<u>DISTRICT</u>	<u>SCHOOL</u>	<u>DISTRICT</u>	<u>SCHOOL</u>
20	140	27	63
20	170	28	121
20	176	28	175
20	179	28	196
20	200	29	33
21	153	29	131
21	171	29	135
21	215	29	156
21	225	29	195
21	253	30	11
22	193	30	70
22	194	30	152
22	206	30	166
22	255		
22	269		
32	86		
24	12		
24	19		
24	49		
24	71		
25	21		
25	22		
25	24		
25	29		
25	32		
25	120		
25	154		
25	164		
25	169		
25	184		
25	193		
25	219		
26	178		
26	188		
26	221		
27	97		
27	100		
27	108		
27	146		
28	55		
28	86		
28	99		
28	117		
28	139		
28	144		
28	174		
28	206		
28	220		
29	34		

APPENDIX I-1 (cont'd.)

<u>DISTRICT</u>	<u>SCHOOL</u>
29	138
29	181
30	2
30	111
30	122
30	127
30	151
31	12
31	14
31	44

Source: 1973-74 Office for Civil Rights,
101-102 Survey

APPENDIX I-2

SEGREGATED INSTRUCTIONAL SETTING 1975-76 SCHOOL YEAR

SCHOOLS REPORTING ABILITY GROUPING

<u>DISTRICT</u>	<u>SCHOOL</u>
1	63
1	134
1	61
1	134
2	116
2	111
2	33
2	2
2	42
2	6
3	179
4	108
4	155
4	83
4	7
4	206
5	46
5	161
6	132
6	128
6	173
6	187
6	128
7	30
7	65
7	154
7	5
7	31
7	161
7	1
7	40
7	157
7	49
8	48
8	72
8	71
8	130
8	75
9	90
9	70

SCHOOLS REPORTING NO ABILITY GROUPING

<u>DISTRICT</u>	<u>SCHOOL</u>
1	110
1	19
1	20
2	158
2	126
2	3
2	41
3	165
3	84
3	75
3	87
3	166
3	145
3	9
3	199
3	191
3	163
4	109
4	101
4	171
4	112
5	36
5	68
6	98
6	189
6	152
6	192
6	28
7	156
8	60
9	42
9	53
9	114
9	126
9	11
9	110
9	35
9	104
10	7
10	122

Appendix I-2 (continued)

<u>DISTRICT</u>	<u>SCHOOL</u>	<u>DISTRICT</u>	<u>SCHOOL</u>
9	55	11	153
9	2	11	106
9	64	12	129
9	73	12	211
9	109	12	102
10	26	12	50
10	86	12	67
10	32	12	57
10	46	12	99
10	59	12	61
11	103	13	54
11	21	13	44
13	282	14	17
13	133	15	29
13	9	16	28
14	31	17	221
14	147	17	289
14	250	17	92
14	84	18	115
15	94	18	242
15	261	18	244
15	58	19	158
16	81	19	328
17	167	20	102
17	161	20	164
17	249	21	248
17	316	21	253
17	181	21	188
18	276	21	80
18	279	22	251
19	63	23	150
19	108	23	41
19	190	23	184
19	174	24	199
19	149	24	12
19	76	24	13
20	160	24	89
20	163	25	79
21	90	25	169
22	193	25	164
22	197	26	162
22	269	27	63
22	194	27	90
23	73	27	197
23	155	28	206
23	165	28	86
24	12	31	48
		31	31

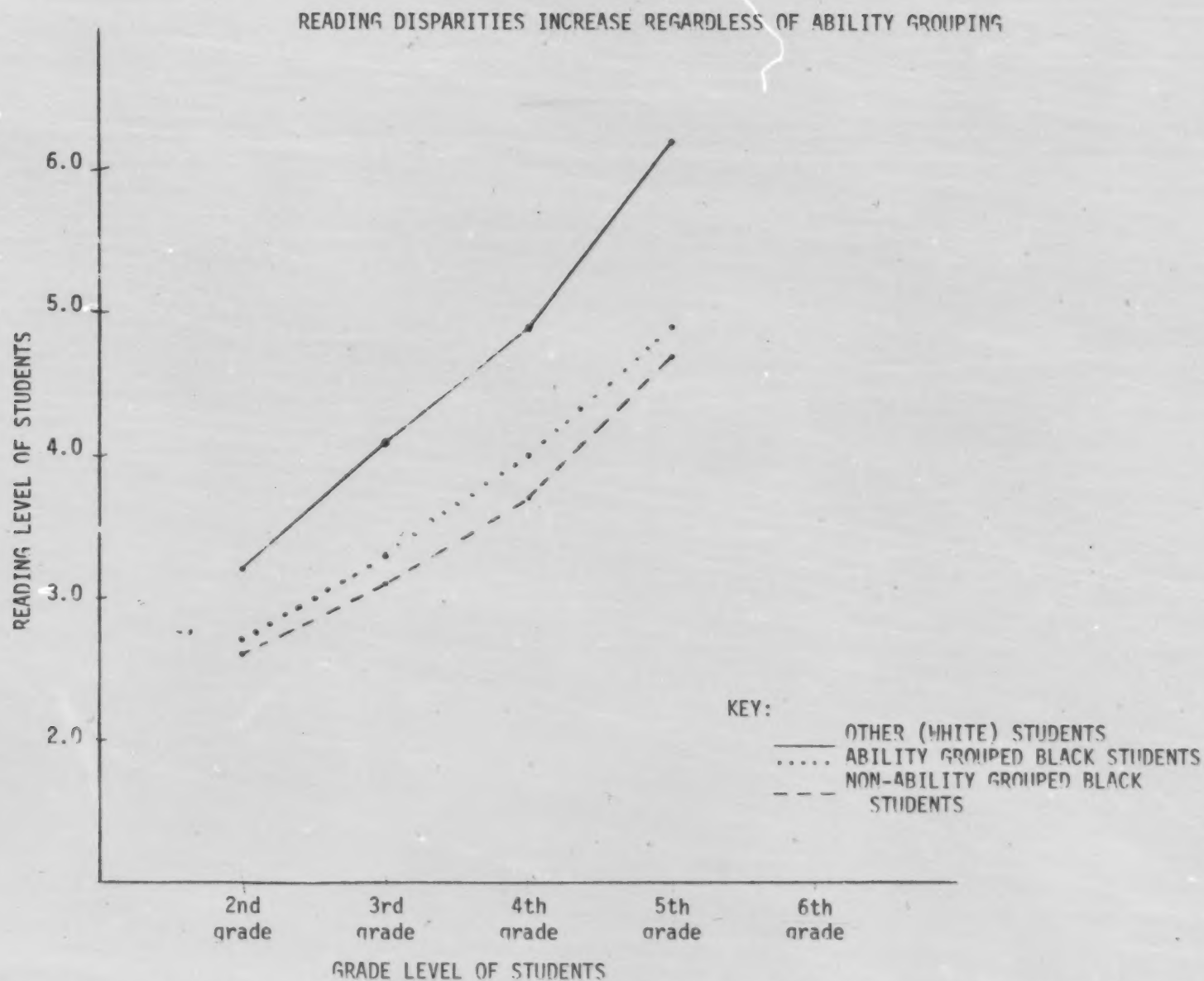
Appendix I-2 (continued)

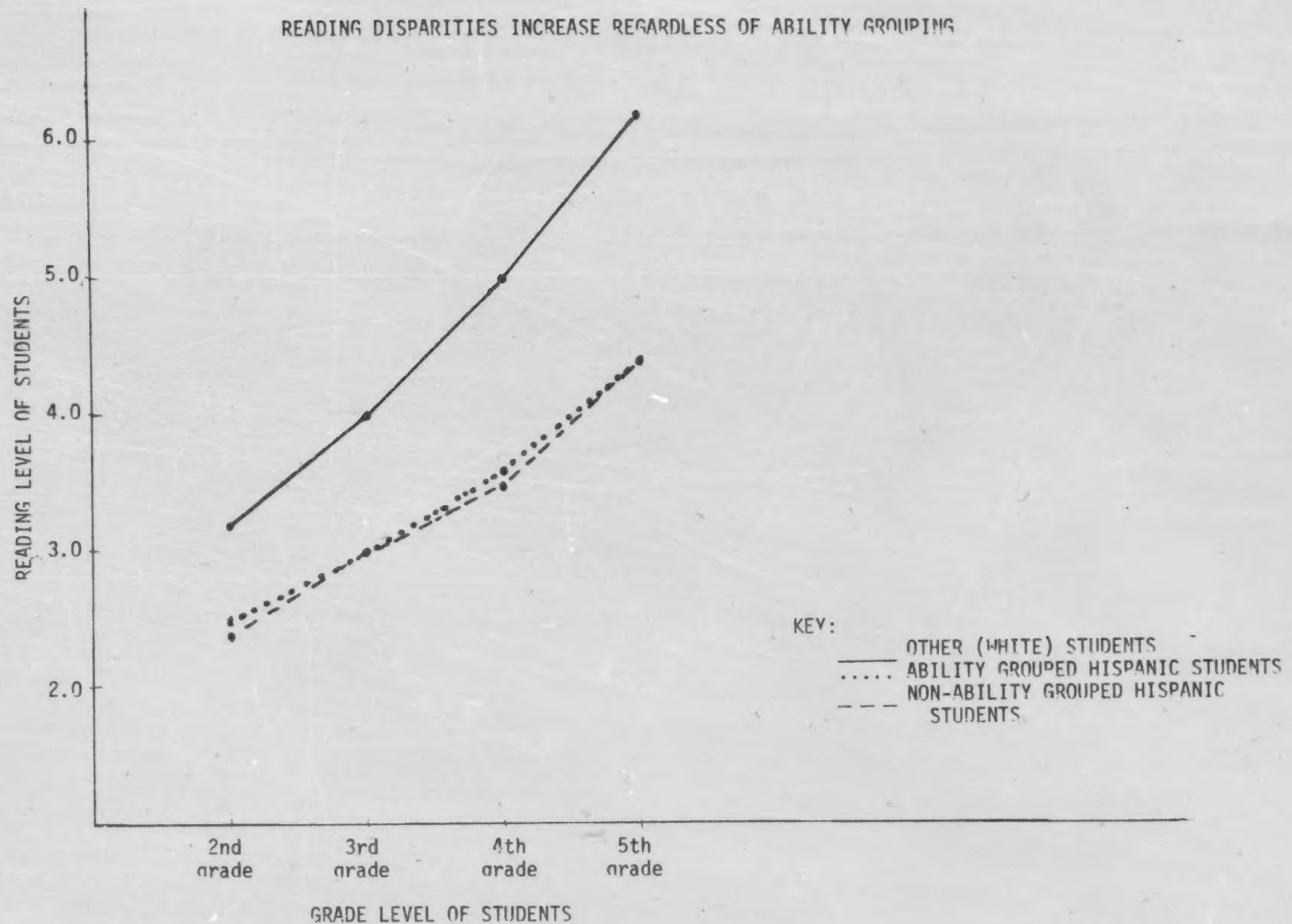
<u>DISTRICT</u>	<u>SCHOOL</u>
24	143
24	14
24	229
25	22
26	159
26	191
26	203
26	213
27	104
28	55
29	95
29	34
29	147
29	118
30	2
31	69
32	50
32	86
32	45
32	299

No Info. in 1975/76

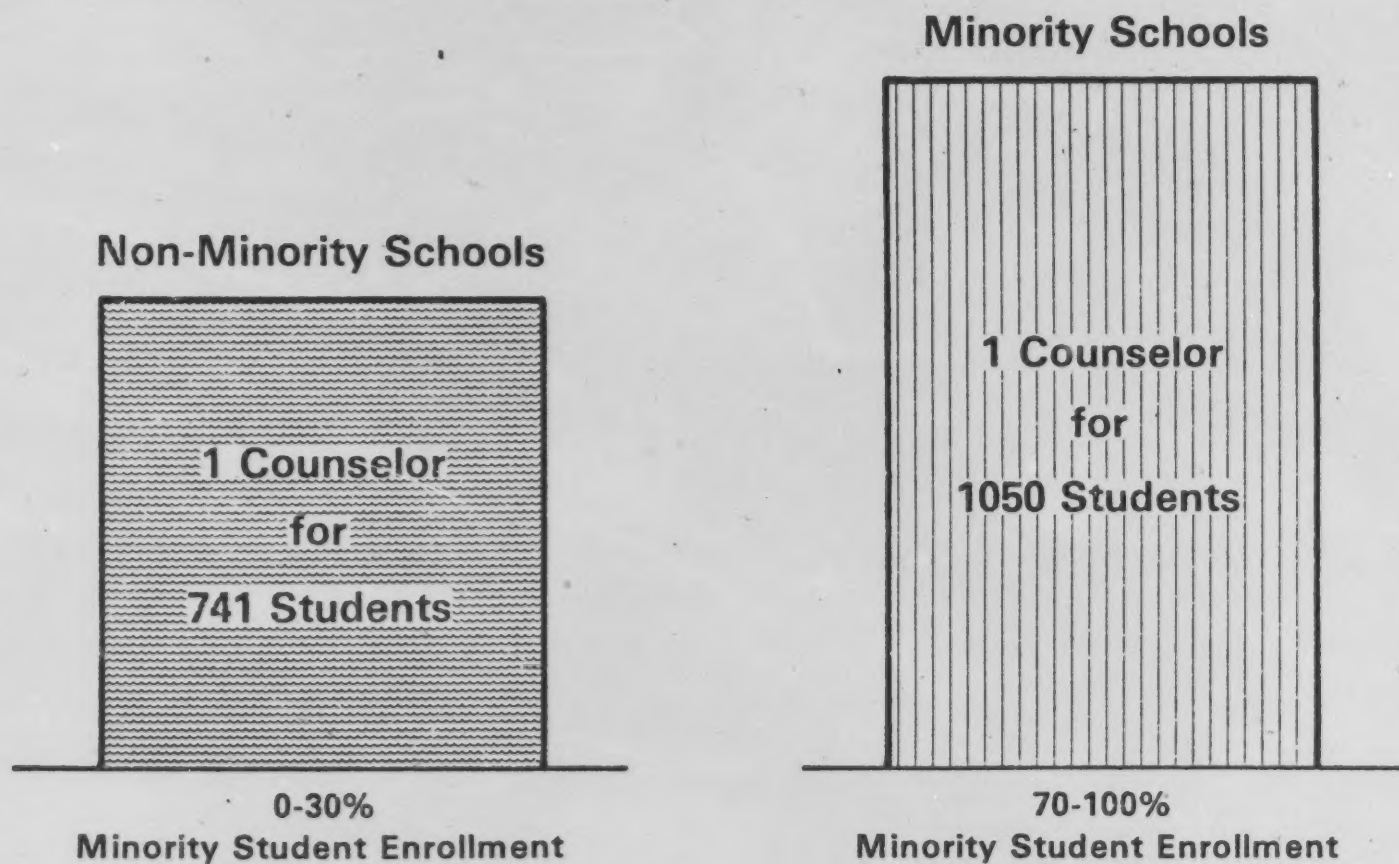
<u>DISTRICT</u>	<u>SCHOOL</u>
3	171
15	32
15	154
15	107
15	230
15	32
15	15
26	188

Source: NYC Board of Education, Profiles: "C" File, 1975-76
Office for Civil Rights, Special Compliance Reports, 1975-76





New York City School System
Guidance Counselor to Student Ratio
in Sample Junior High/Intermediate Schools



Appendix I.

NUMBER OF STUDENTS SERVED
PER GUIDANCE COUNSELOR HOUR

vs.

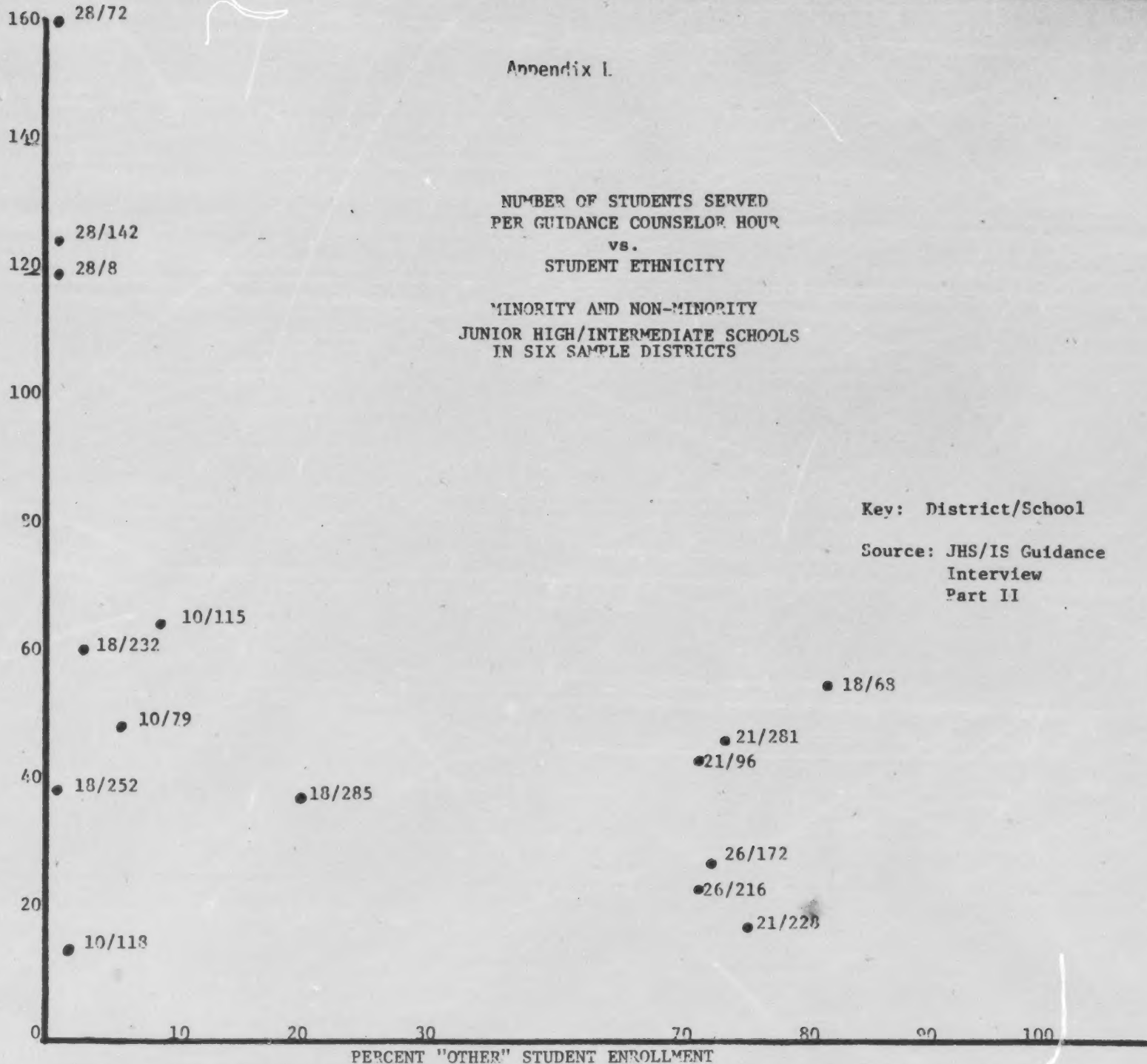
STUDENT ETHNICITY

MINORITY AND NON-MINORITY
JUNIOR HIGH/INTERMEDIATE SCHOOLS
IN SIX SAMPLE DISTRICTS

NO. OF STUDENTS SERVED PER HOUR OF GUIDANCE TIME

Key: District/School

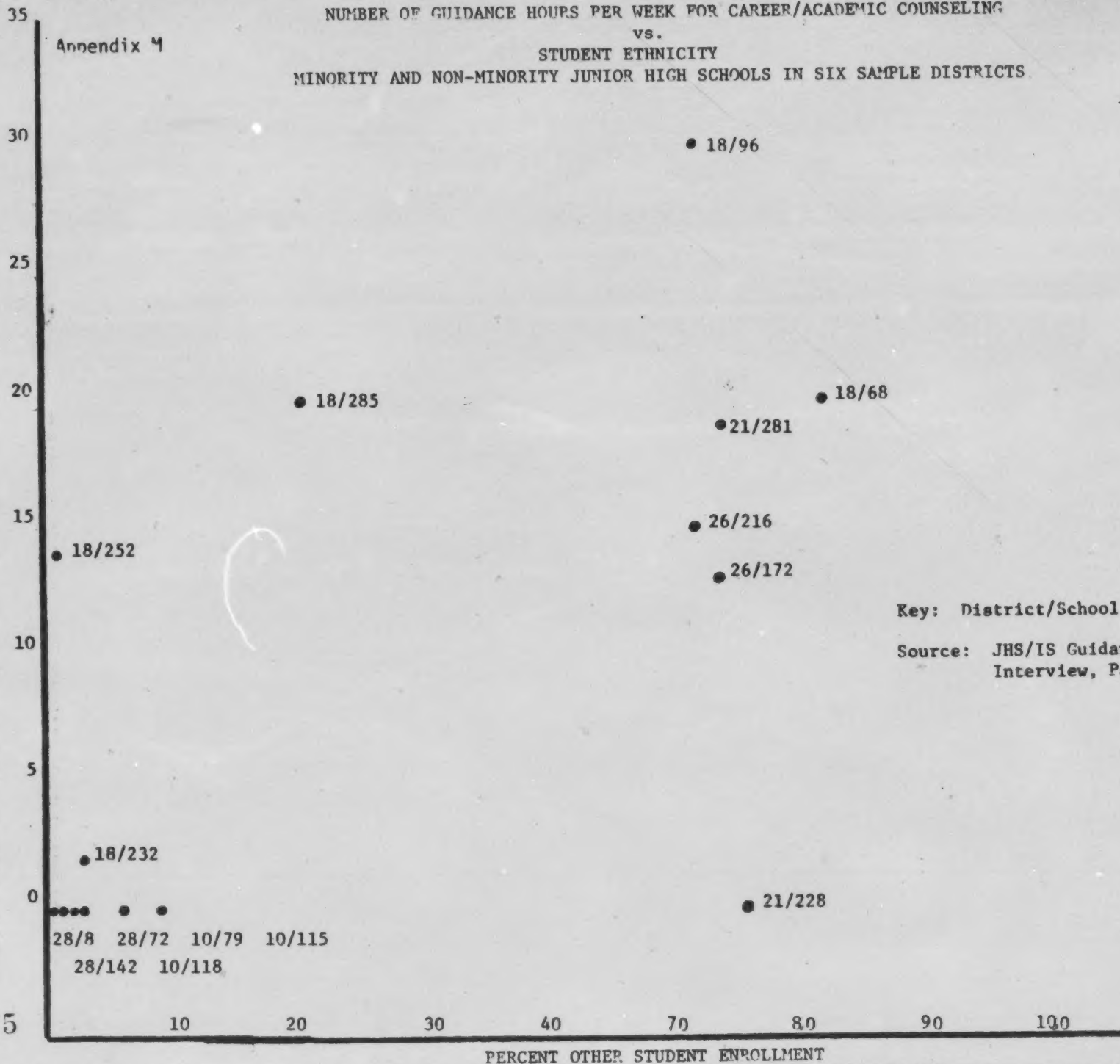
Source: JHS/IS Guidance
Interview
Part II



NUMBER OF GUIDANCE HOURS PER WEEK FOR CAREER/ACADEMIC COUNSELING
vs.
STUDENT ETHNICITY
MINORITY AND NON-MINORITY JUNIOR HIGH SCHOOLS IN SIX SAMPLE DISTRICTS

Appendix M

NO. OF GUIDANCE HOURS PER WEEK FOR CAREER/ACADEMIC COUNSELING



Key: District/School

Source: JHS/IS Guidance
Interview, Part I

Appendix N

ATTRITION IN NYC HIGH SCHOOLS 1974-75 TENTH GRADE TO 1975-76 ELEVENTH GRADE

<u>STUDENTS BY RACE/ETHNICITY</u>	<u>ATTRITION RATES</u>
TOTAL STUDENTS	- 21.4 %
BLACK STUDENTS	- 25.7 %
SPANISH SURNAMED STUDENTS	- 34.2 %
OTHER (WHITE) STUDENTS	- 9.1 %

SOURCE: NYC BOARD OF EDUCATION, PROFILES

APPENDIX 0

MINORITIES IN SPECIAL ADMISSIONS ACADEMIC HIGH SCHOOLS

Graduating from Junior High School:

40.0%	Black
1.8%	Asian
18.0%	Puerto Rican
1.9%	Other Spanish Surnamed
38.2%	Other

Applying to Stuyvesant High School, Bronx High School of Science and Brooklyn Technical High School:

37.2%	Black
6.6%	Asian
14.4%	Puerto Rican
0.7%	Other Spanish Surnamed
41.0%	Other

Attending Stuyvesant High School, Bronx High School of Science and Brooklyn Technical High School:

25.8%	Black
9.6%	Asian
6.3%	Puerto Rican
0.4%	Other Spanish Surnamed
58.1%	Other

Rates of attendance (# applying/ # attending):

17.4%	for Blacks
36.0%	for Asians
11.0%	for Puerto Ricans
12.5%	for Other Spanish Surnamed
35.4%	for Other

SOURCE: JHS/IS Graduating Student Logs

APPENDIX P

NEW YORK CITY VOCATIONAL - TECHNICAL HIGH SCHOOLS BY SEX

	<u>% MALE</u>
1. Chelsea Vocational High School	100.
2. New York School of Printing	83.7
3. Food and Maritime Trades High School	92.5
4. Manhattan Vocational Technical High School	99.5
5. Alfred E. Smith High School	99.9
6. Samuel Gompers High School	100.
7. George Westinghouse Vocational and Technical High School	96.4
8. Automotive High School	99.9
9. East New York Vocational and Technical High School	99.9
10. William E. Grady Vocational Technical High School	99.0
11. Alexander Hamilton Vocational and Technical High School	96.9
12. Thomas A. Edison Vocational and Technical High School	99.1
13. Aviation High School	100.
14. Ralph R. McKee Technical-Vocational High School	100.
	<u>% FEMALE</u>
15. High School of Fashion Industries	94.1
16. Norman Thomas High School for Commercial Education	85.4
17. Mabel Dean Bacon Vocational High School	100.
18. Jane Addams Vocational High School	98.
19. Grace H. Dodge Vocational High School	91.1
20. Clara Barton High School for Health Professions	89.5
21. William H. Maxwell Vocational High School	99.9

Appendix P (continued)

	<u>% MALE</u>	<u>% FEMALE</u>
22. High School of Art and Design	54.1%	45.9%
23. Queens Vocational High School	48.8%	51.2%
24. Eli Whitney Vocational High School	31.9%	68.1%

Source: NYC Board of Education, Profiles: "C" File, 1975-76

APPENDIX Q

PROGRAMS OF STUDY AT QUEENS VOCATIONAL HIGH SCHOOL BY SEX

	<u># FEMALES</u>	<u># MALES</u>	<u># TOTAL</u>	<u>% FEMALE</u>
ELECTRICAL INSTALLATION	00	156	156	00.00
PLUMBING	00	100	100	00.00
RADIO AND TV MECHANICS	00	122	122	00.00
MACHINE SHOP	00	29	29	00.00
INSTRUMENT TECHNOLOGY	00	42	42	00.00
BUSINESS EDUCATION	129	16	145	88.96
STENOGRAPHY	107	1	108	99.07
TECHNICAL AUTOMATION	168	00	168	100.00
PRACTICAL NURSING	51	00	51	100.00
COSMETOLOGY	175	00	175	100.00
PHYSICIAN'S OFFICE ASSISTANT	13	00	13	100.00
HEALTH CAREERS	66	00	66	100.00
TOTAL	658	517	1,175	56.00

SOURCE:

Source: High School Principal
Interviews, 1974-75

**New York City School System
Enrollment, Suspensions
and Suspension Days by Race**

Percent

100 —

80 —

60 —

40 —

20 —

0

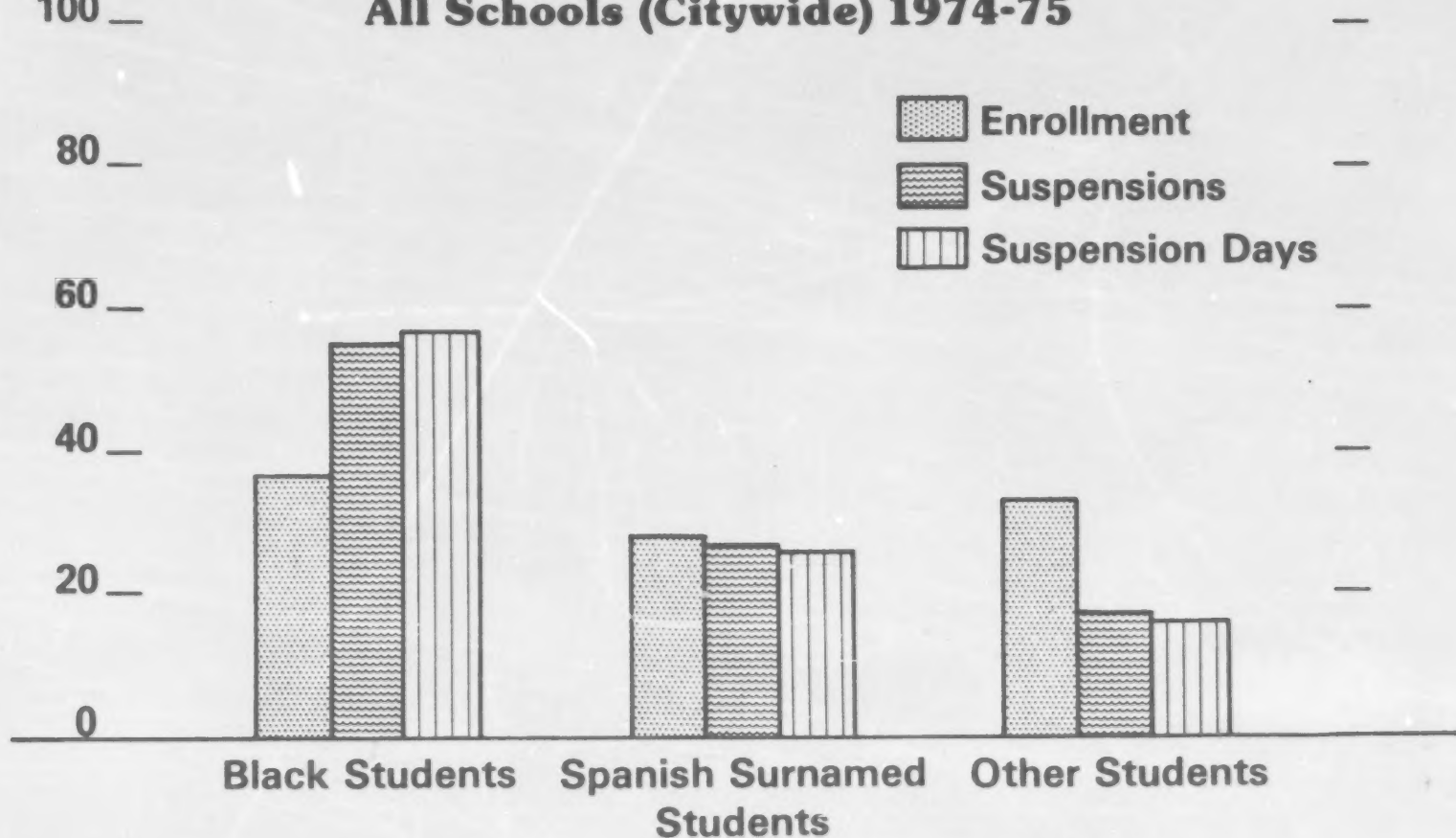
All Schools (Citywide) 1974-75

Enrollment
Suspensions
Suspension Days

Black Students

Spanish Surnamed
Students

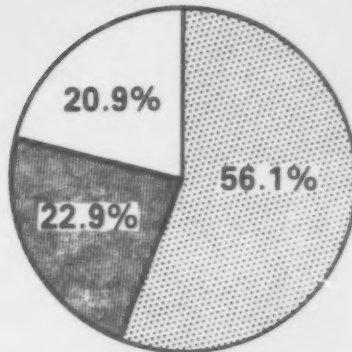
Other Students



New York City School System

Comparison of Types of Disciplinary Penalties Imposed on Students

Suspensions



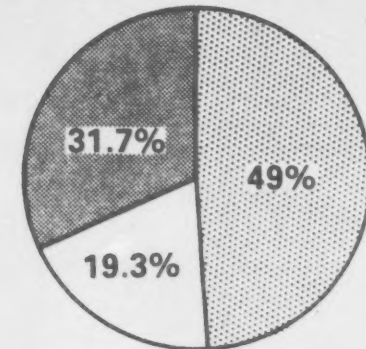
Students:

Other

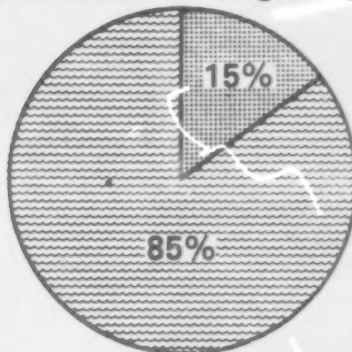
Black

Spanish-Surnamed

Less Severe Penalties



Minority Students Punished for Fighting

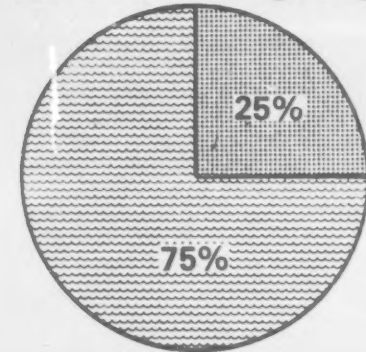


More Severe Penalties for Same Offense

0-2 Days Suspended

3-5 Days Suspended

Non-Minority Students Punished for Fighting



Sample High and Junior High/Intermediate Schools

5

New York City School System

(NEW YORK CITY EQUAL EDUCATIONAL SERVICES REVIEW;
GRAPHIC PRESENTATION)

1. Summary of Findings
2. New York City Education Process
3. Per Pupil Expenditures of Tax Levy Money for Instructional Salaries
4. Number of Courses Offered in Academic High Schools
5. New York City Integrated School vs. Segregated Classes
6. Segregated Groups - Educational Sidetracks
7. Students Assigned to Special Education Classes 1975-76
Elementary and Junior High/Intermediate Schools
8. Language Barriers to Equal Opportunity
9. Admission to Special Academic High Schools (Brooklyn Tech, Bronx High School of Science, Stuyvesant)
10. Racial/Ethnic Composition of Students Attending
New York City High Schools - 1975-76
11. Sex Segregated Courses of Study in Six Vocational
Technical High Schools
12. Guidance Counselor to Student Ratio in Sample
Junior High/Intermediate Schools
13. Instructional Barriers for Handicapped Children
14. Enrollment, Suspensions & Suspension Days by Race
15. Comparison of Types of Disciplinary Penalties
Imposed On Students
16. The Impact of a Dual System

New York City School System Summary of Findings

- Minorities at all levels are receiving lower amounts of local resources for basic education.
- Minorities are segregated in elementary school classrooms and are given unequal educational services.
- Students whose primary language is other than English are barred from meaningful participation in education programs.
- Minority and female students in junior high/intermediate and high schools are channeled away from desirable academic, vocational, and special programs and are provided with less effective counseling services.
- Minority junior high/intermediate and high school students are disciplined differently and more harshly than non-minority students for the same offenses.

New York City School System Summary of Findings

at all levels are receiving lower amounts of local resources
education.

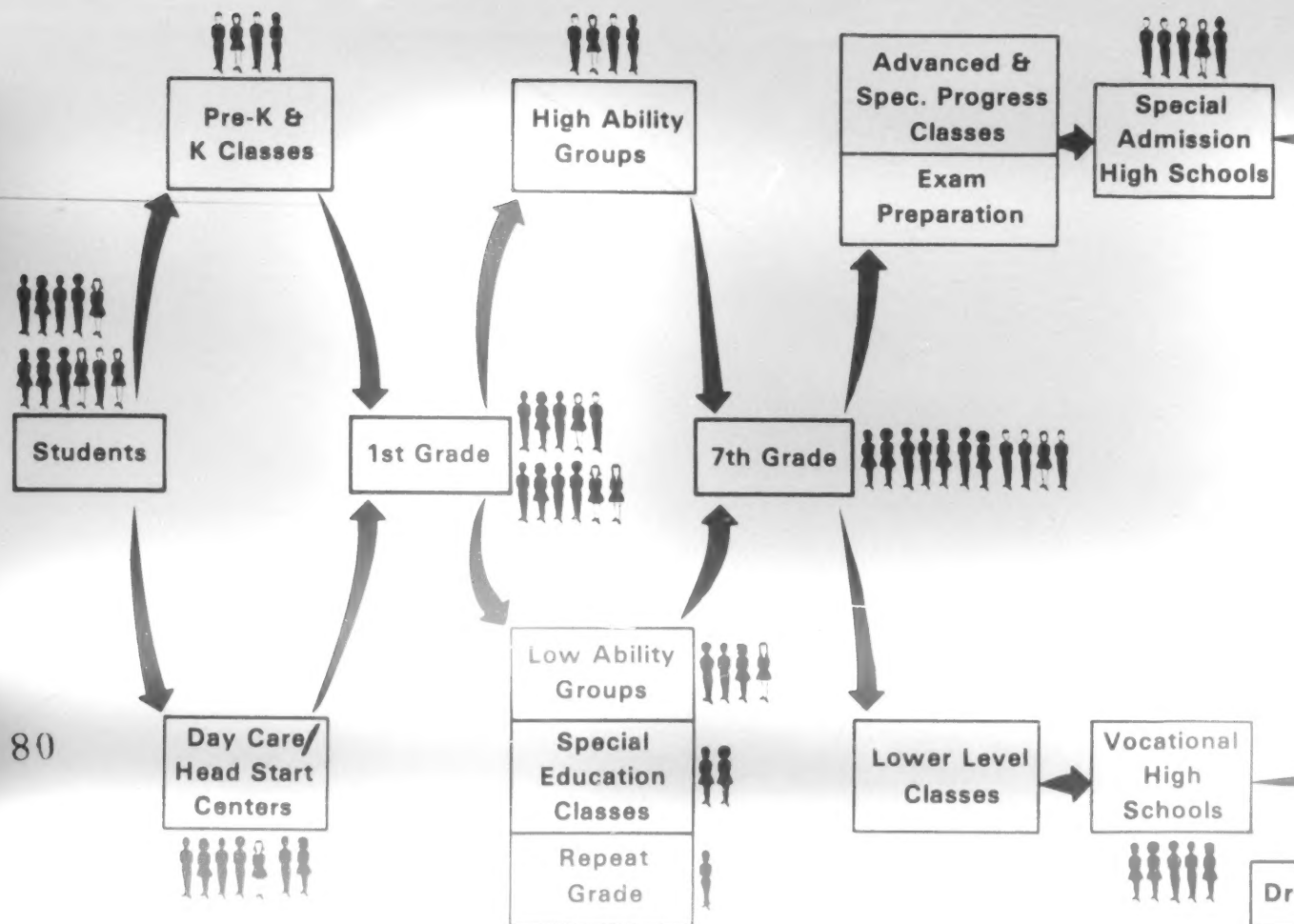
are segregated in elementary school classrooms and are
equal educational services.

whose primary language is other than English are barred
meaningful participation in education programs.

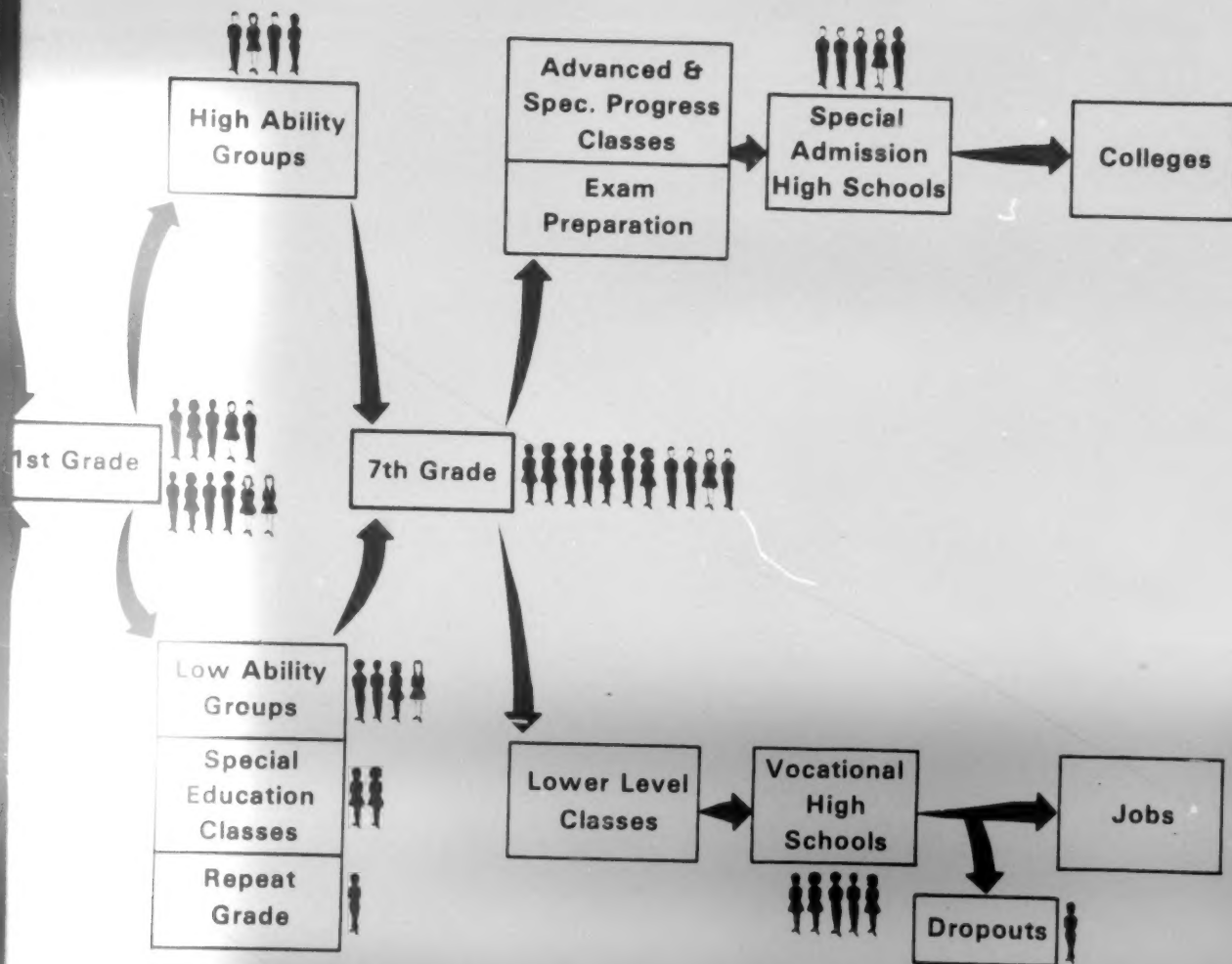
and female students in junior high/intermediate and high
are channeled away from desirable academic, vocational and
programs and are provided with less effective counselling

Junior high/intermediate and high school students are treated
more harshly than non-minority students disciplined
for offenses.

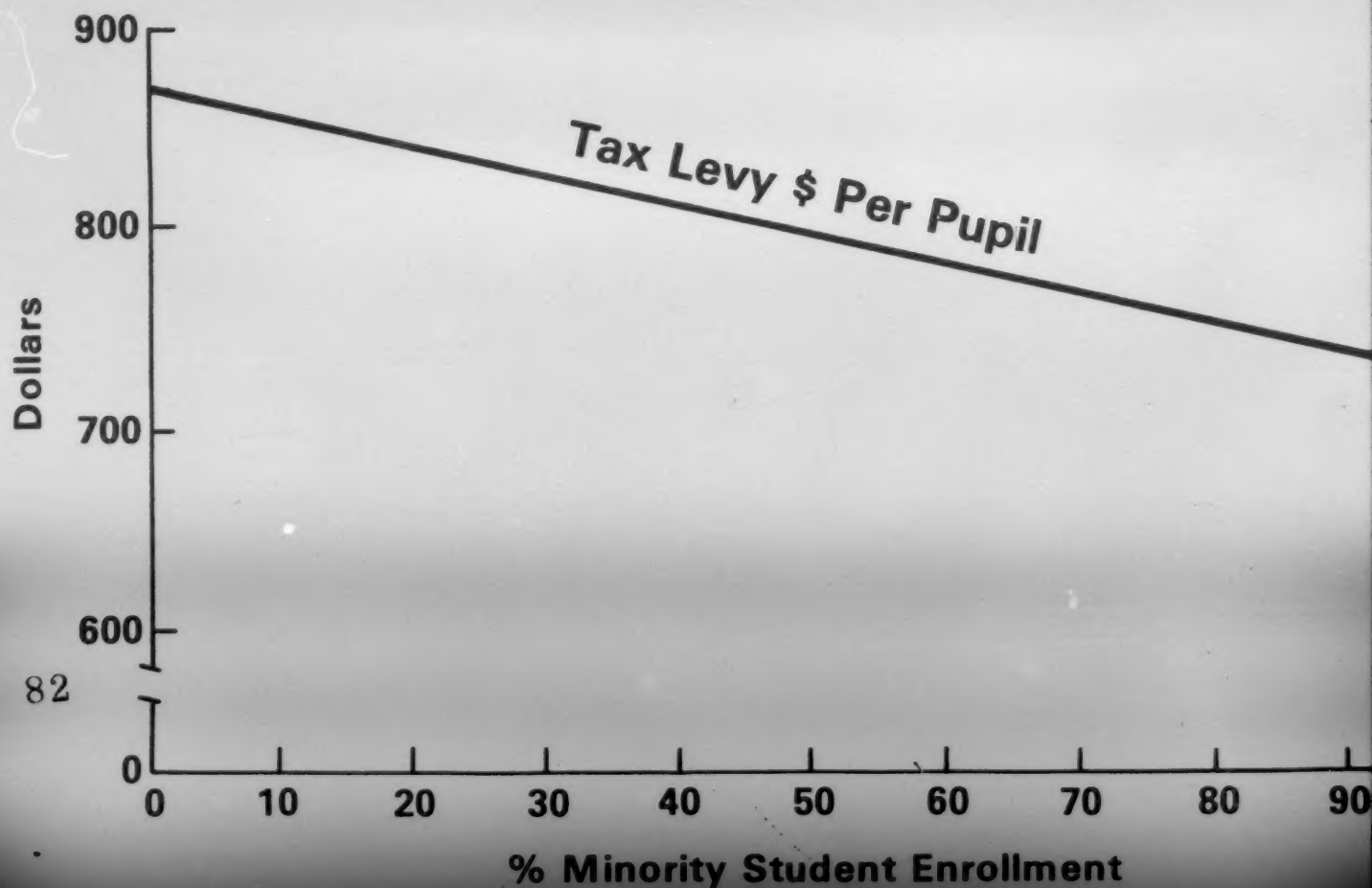
New York City Education Process



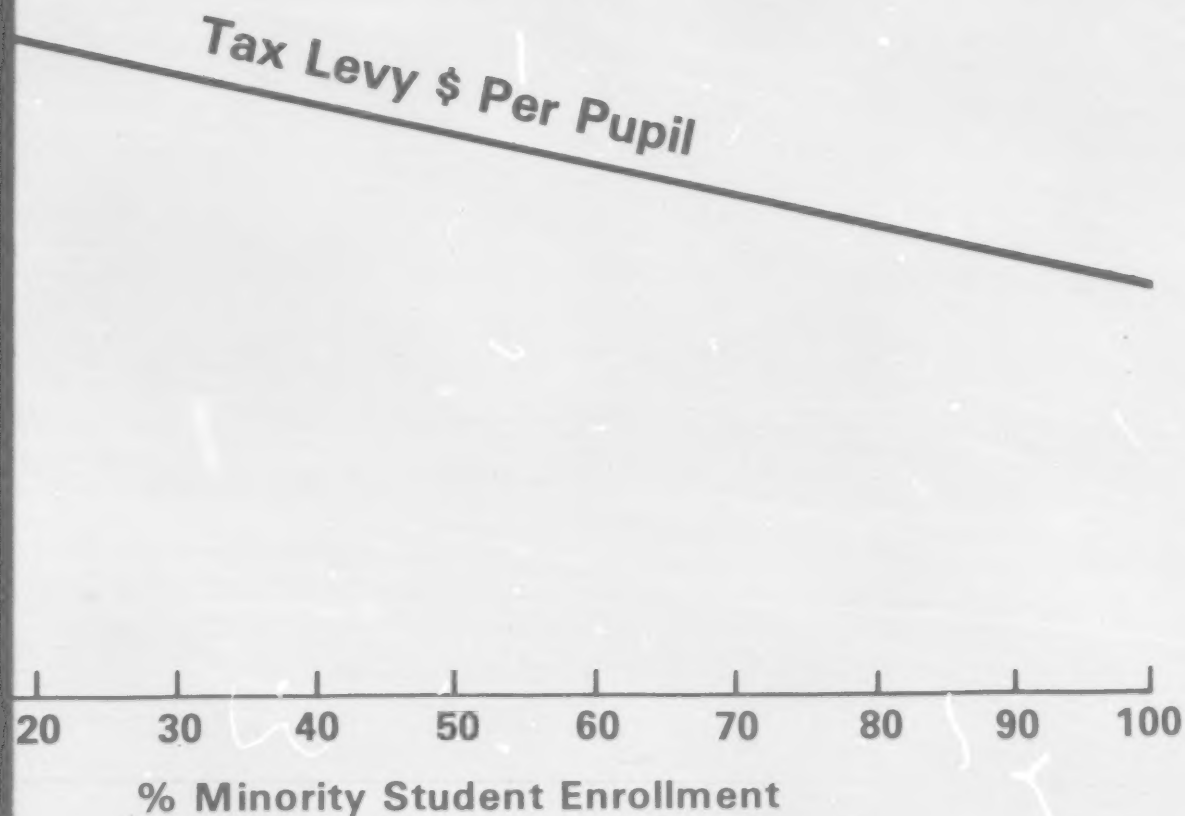
New York City Education Process



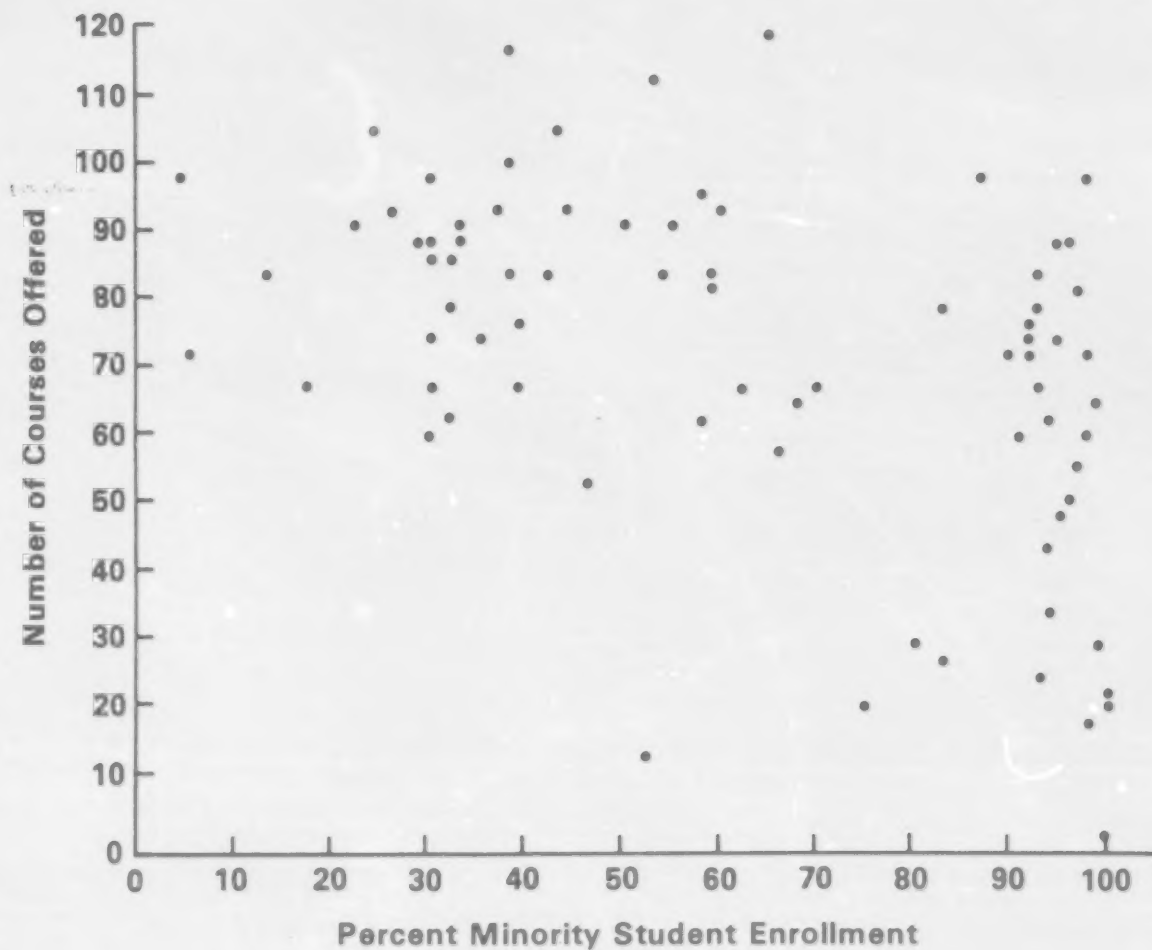
New York City School System
Per Pupil Expenditures of Tax Levy Money
for Instructional Salaries
Academic High Schools 1974-75



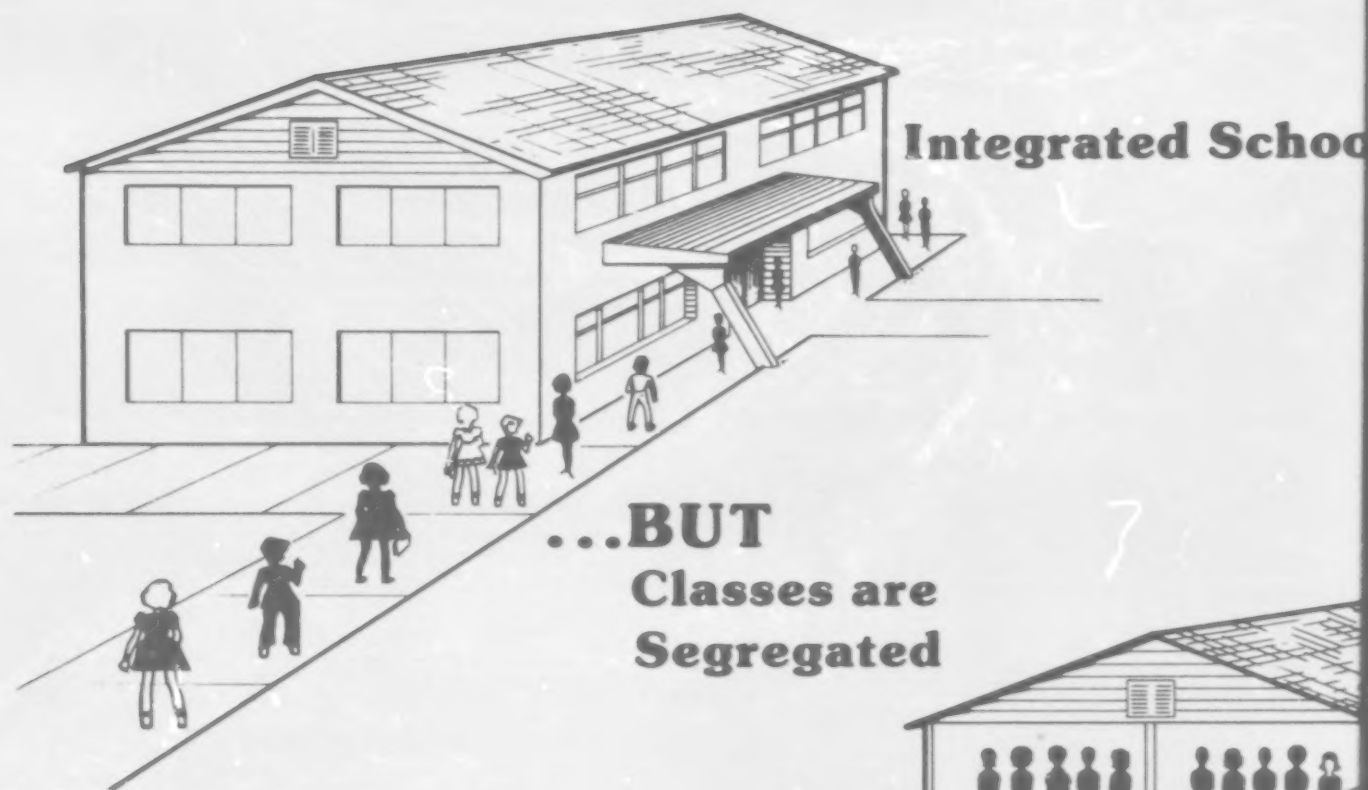
New York City School System
Per Pupil Expenditures of Tax Levy Money
for Instructional Salaries
Academic High Schools 1974-75



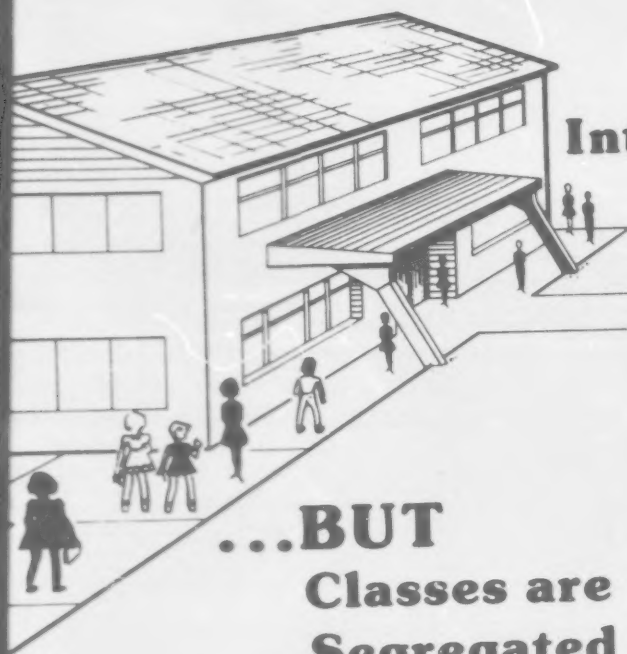
New York City School System
Number of Courses Offered in Academic High Schools



New York City School System

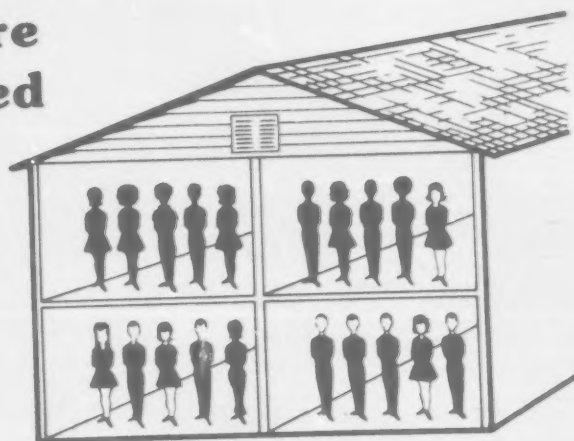


New York City School System



Integrated School...

**...BUT
Classes are
Segregated**



New York City School System
Segregated Groups - Educational Sidetracks
Elementary Schools

**Enriched Educational Programs
are Not Provided to
Lower Level Classes:**



**202 Elementary Schools
with Segregated Classes
427 Segregated Grades**



Teaching Assignments
+
Classroom Settings
+
Teaching Method
+
Curricular Materials
+
Teacher Experience
& Qualifications

**As Students
Get Older**

Segregation

**Disparity
Scores**

New York City School System
Segregated Groups - Educational Sidetracks
Elementary Schools

**Enriched Educational Programs
are Not Provided to
Lower Level Classes:**



Teaching Assignments
+
Classroom Settings
+
Teaching Method
+
Curricular Materials
+
Teacher Experience
& Qualifications

**As Students
Get Older**

Segregation Continues

**Disparity in Reading
Scores Increases**

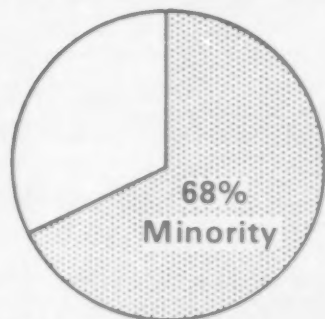
New York City School System

Students Assigned to Special Education Classes

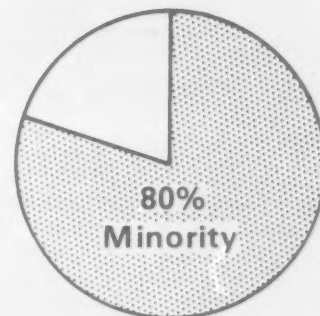
1975-76

Elementary and Junior High/Intermediate Schools

Classes for Educable Mentally Retarded (EMR&MH) Students

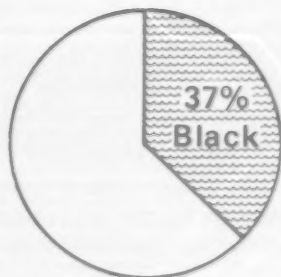


Enrollment of Minorities
in Schools

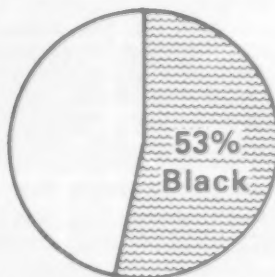


Enrollment of Minorities
in EMR and MH Classes

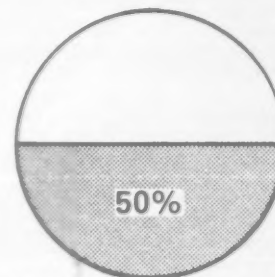
Classes for Emotionally Handicapped (EH) Students



Enrollment of Black
Students in Schools



Enrollment of Black
Students in
EH Classes



Sex Composition
of Schools

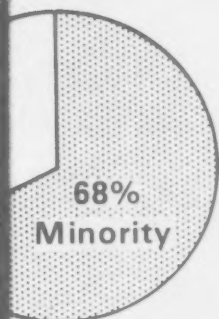


Enrollment
in EH

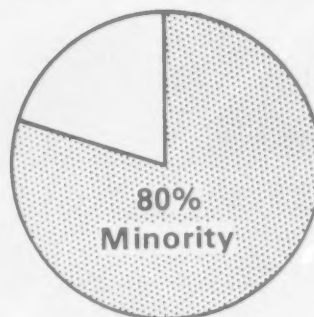
New York City School System Assigned to Special Education Classes 1975-76

Primary and Junior High/Intermediate Schools

for Educable Mentally Retarded (EMR&MH) Students

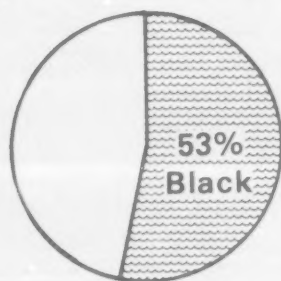


Percentage of Minorities
in EMR and MH
Classes

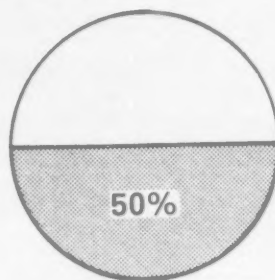


Enrollment of Minorities
in EMR and MH Classes

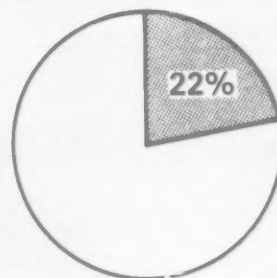
Classes for Emotionally Handicapped (EH) Students



Enrollment of Black
Students in
EH Classes



Sex Composition
of Schools



Enrollment of Females
in EH Classes

New York City School System

Language Barriers to Equal Opportunity

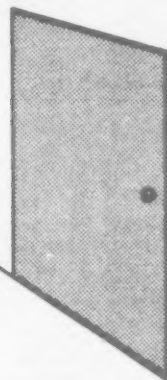
Students of Varied Language Backgrounds

- Spanish
- Italian
- French
- Greek
- Chinese
- Japanese



English Spoken Only

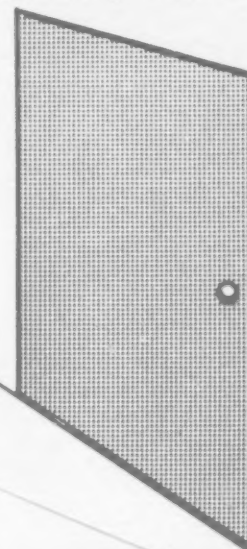
Exit for English
Speaking Students



- Reading Skills
- Graduation
- Higher Education



Exit for Non-English
Speaking Students



- D
- S
- F

New York City School System

Age Barriers to Equal Opportunity

- Reading Skills
- Graduation
- Higher Education

Exit for English
Speaking Students



Exit for Non-English
Speaking Students



- Dropouts
- Suspensions
- Failure

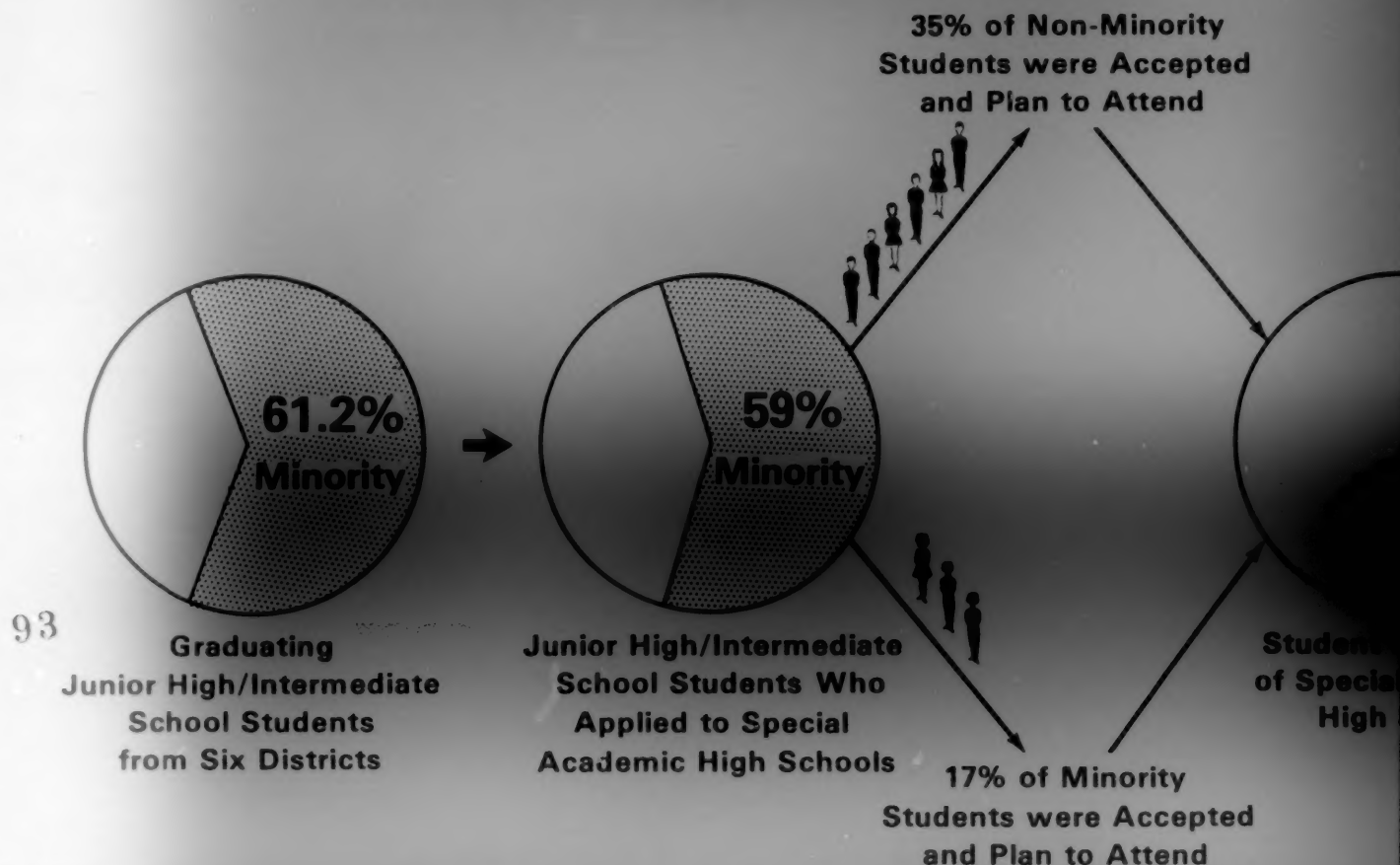


English Spoken Only

New York City School System

Admissions to Special Academic High Schools

(Brooklyn Tech, Bronx High School of Science, Stuyvesant High School)

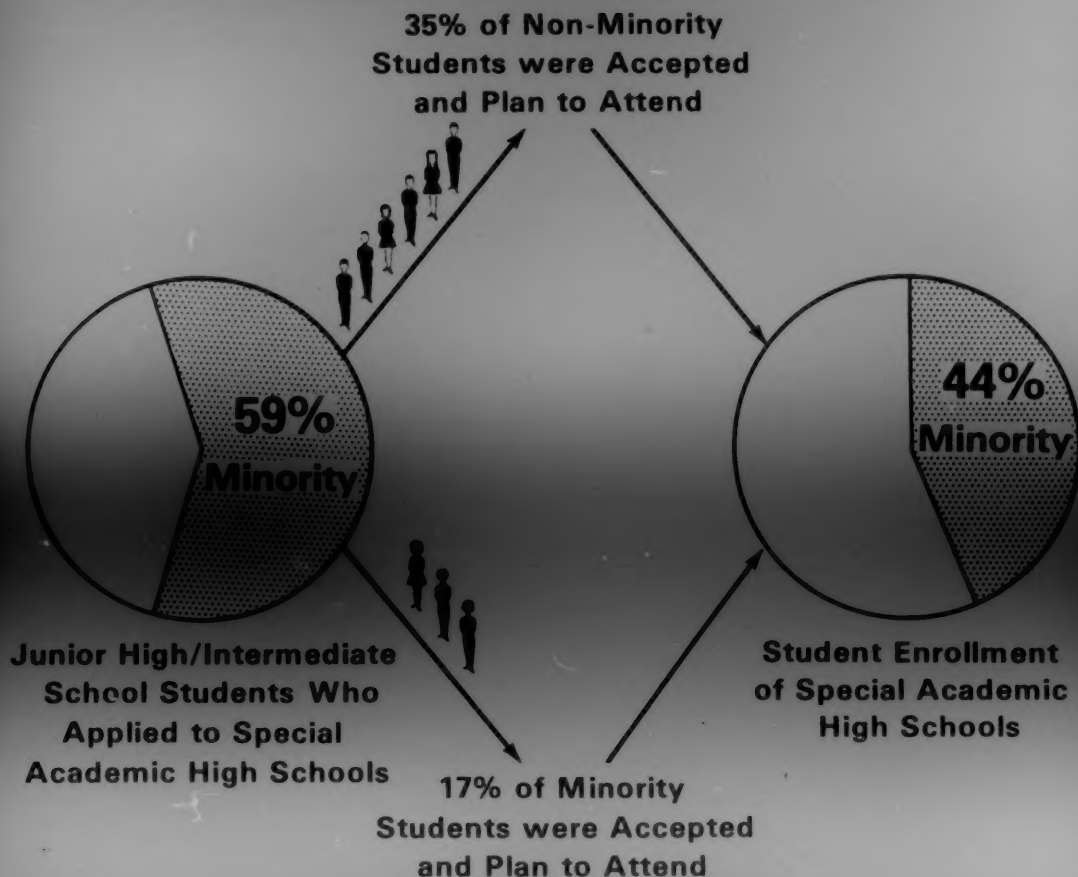


New York City School System

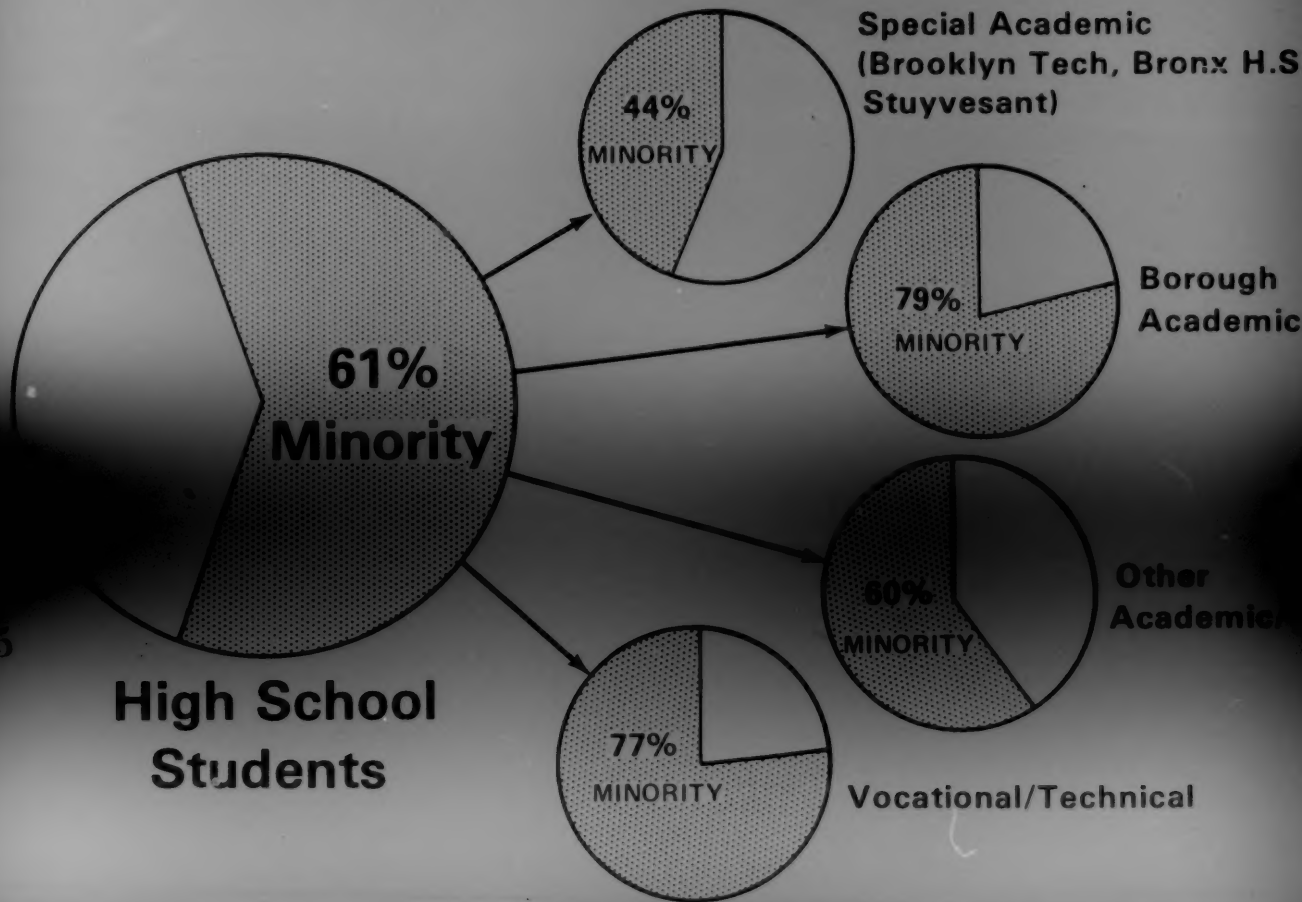
Admissions to

Special Academic High Schools

(Columbia Tech, Bronx High School of Science, Stuyvesant)



New York City School System
Racial/Ethnic Composition of Students
Attending New York City High Schools
1975-76

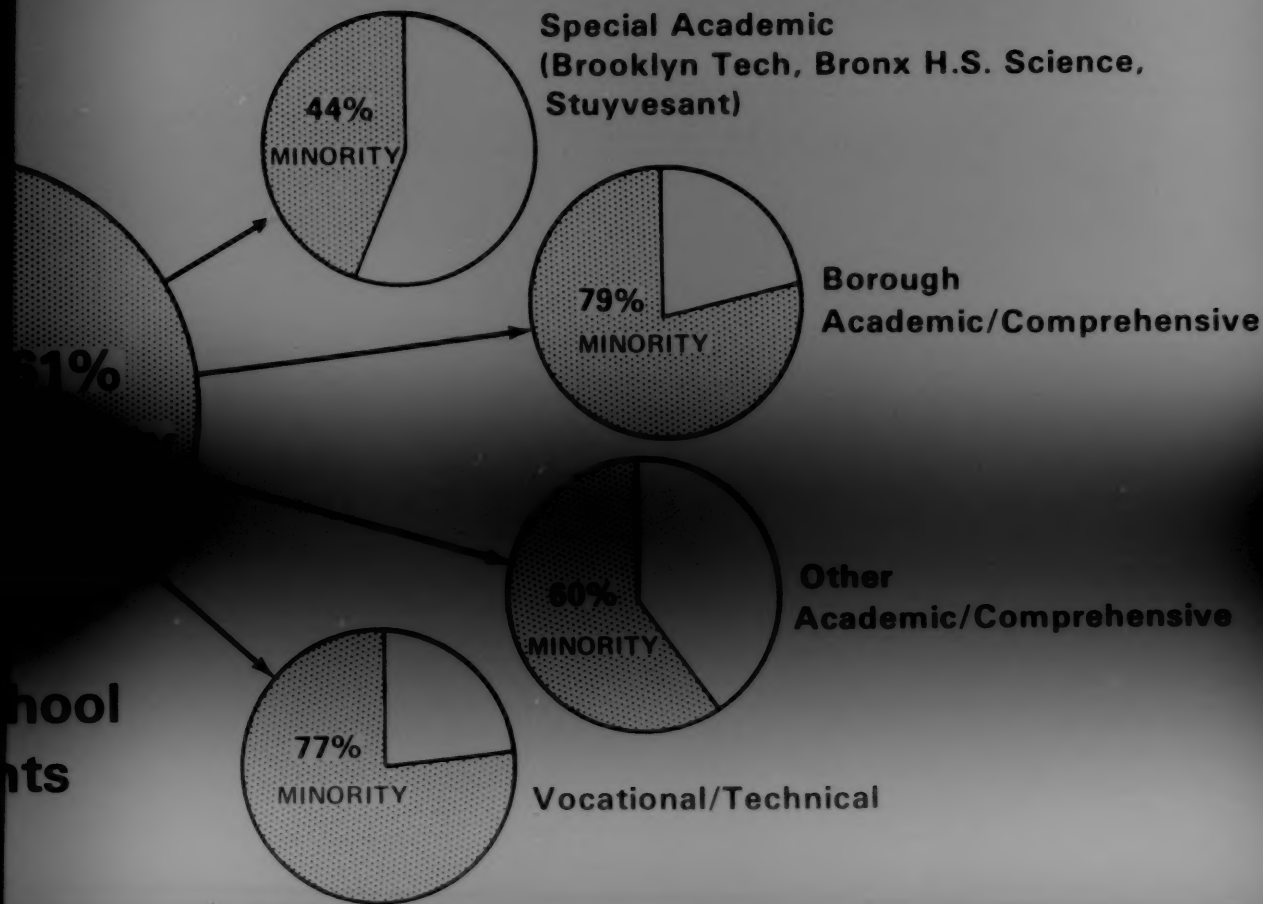


New York City School System

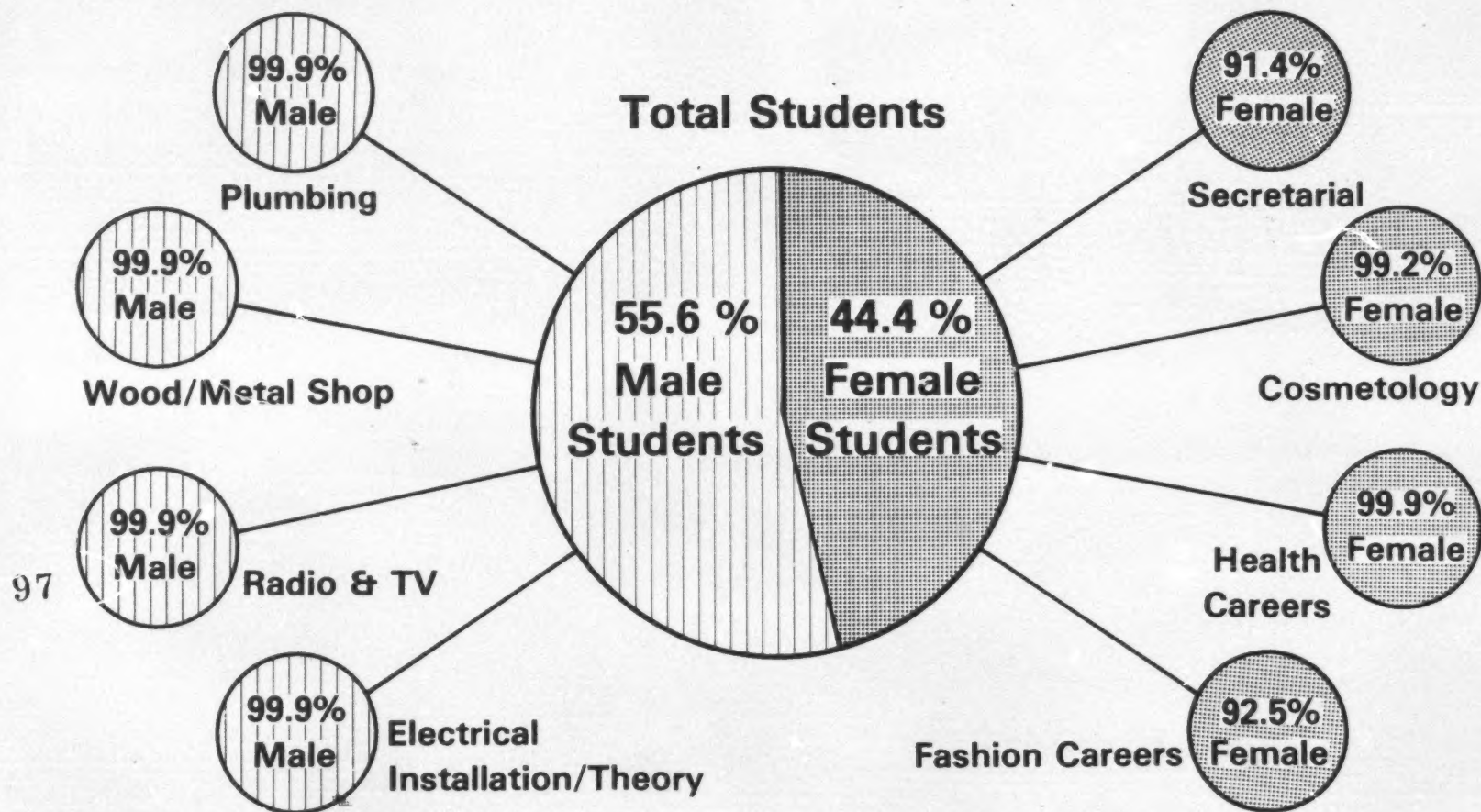
Racial/Ethnic Composition of Students

Attending New York City High Schools

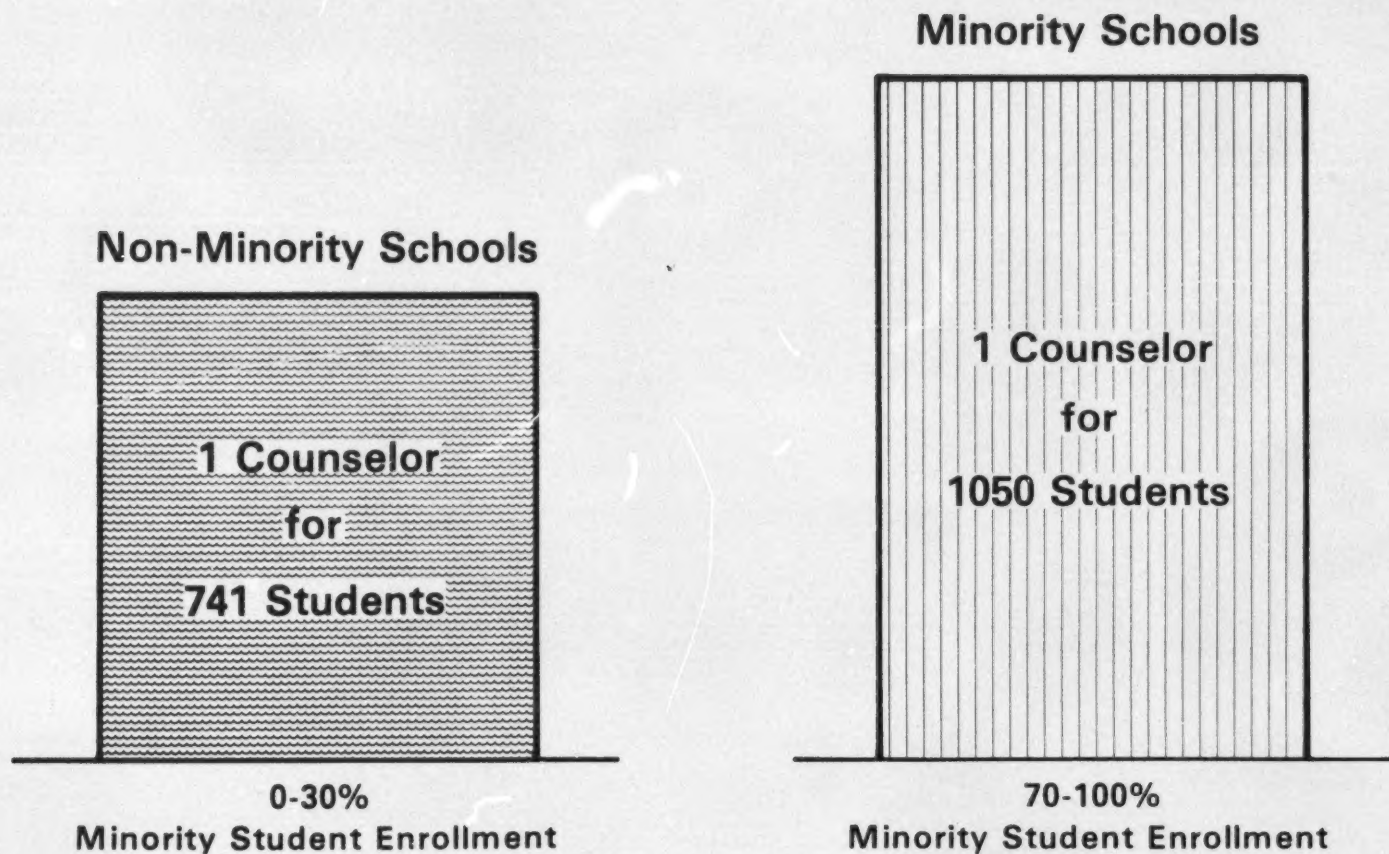
1975-76



New York City School System
Sex-Segregated Courses of Study
in Six Vocational-Technical High Schools

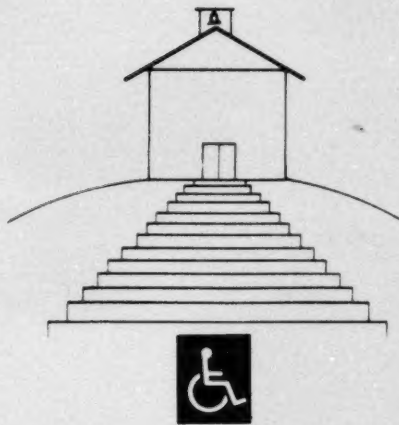


New York City School System
Guidance Counselor to Student Ratio
in Sample Junior High/Intermediate Schools

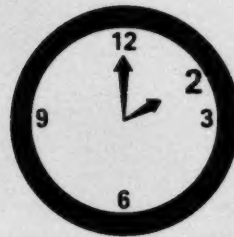


New York City School System

**Instructional Barriers
for Handicapped Children**



**Inaccessibility
to Classrooms**



**Shorter
School Days**



**Undiagnosed
Needs**

New York City School System
Enrollment, Suspensions
and Suspension Days by Race

All Schools (Citywide) 1974-75

Percent

100 —

80 —

60 —

40 —

20 —

0



Enrollment



Suspensions



Suspension Days

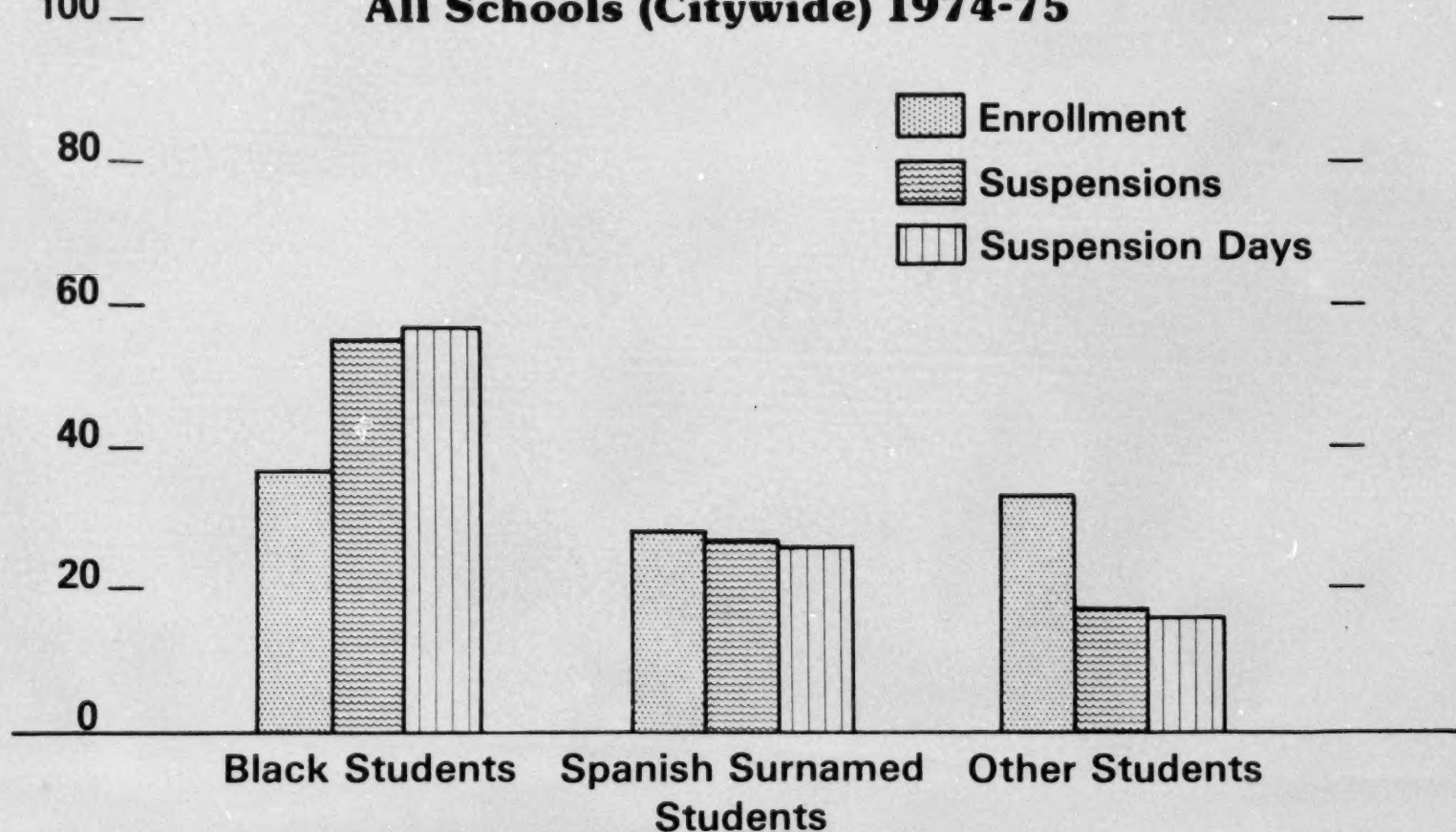
Black Students

Spanish Surnamed
Students

Other Students

103

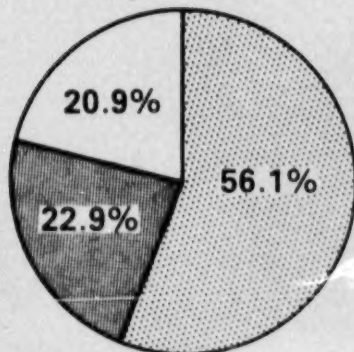
104



New York City School System

Comparison of Types of Disciplinary Penalties Imposed on Students

Suspensions



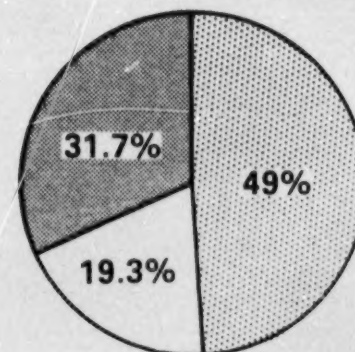
Students:

Other

Black

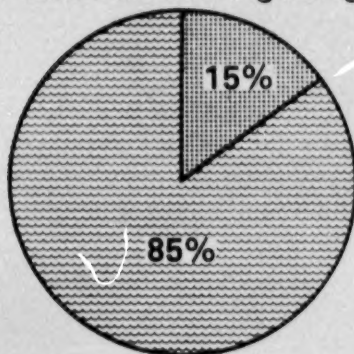
Spanish-Surnamed

Less Severe Penalties



More Severe Penalties for Same Offense

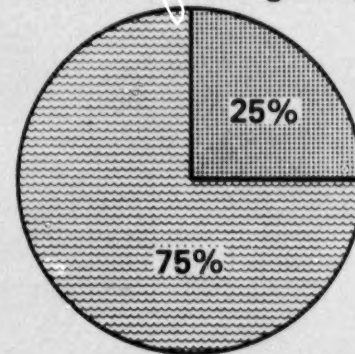
**Minority Students
Punished for Fighting**



0-2 Days Suspended

3-5 Days Suspended

**Non-Minority Students
Punished for Fighting**



Sample High and Junior High/Intermediate Schools

New York City School System

The Impact of a Dual System

